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ABSTRACT

To date, eight states (Minnesota, California, Colorado, Georgia, Massachusetts, Missouri, New Mexico, and Wisconsin) have passed some type of charter school legislation. This report provides information on activities and legislation in these states regarding charter school formation, including the roles played by individual teachers and others as organizers, by local school boards as sponsors, and by county or state officials in providing an appeals process and technical assistance. Statutory requirements, legal responsibilities, funding mechanics, and employment issues including hiring and dismissal, collective bargaining, and job security are also detailed. Recommendations to policymakers are also offered considering potential charter school legislation. The following key issues are considered: Who should sponsor? Which state laws/rules should remain? What about the mechanics of funding? Who should govern? How can resistance be overcome? What about private school inclusion? Do charter schools conflict with consolidation efforts? what role should the state play? and Will charter schools cost more? Findings illustrate that charter schools appear to be a viable reform initiative, particularly in states in which "gridlock" over the future of education has occurred. Appendices contain a comparison of charter school laws and examples of charter school legislation enacted in Minnesota, California, Massachusetts, and Colorado. (LMI)

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CHARTER SCHOOL UPDATE: EXPANSION OF A VIABLE REFORM INITIATIVE

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CHARTER SCHOOL UPDATE: EXPANSION OF A VIABLE REFORM INITIATIVE

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Charter School Update: Expansion of a Viable Reform Initiative

Executive Summary

Charter schools offer policymakers a structure that *integrates* many ideas that heretofore have met with resistance. As part of an "ideal" charter school structure, educators within existing public or private schools, parents, or other members of the community develop a proposal describing how they would operate a school and what specific outcomes they would achieve. Local school boards or other county/state entities are authorized to grant a "charter" to this group and to hold them responsible for the provisions of their proposal. Once granted a charter, a school receives formula-driven funding as if it were a public school district. Two key differences, however, exist. First, these charter schools are freed of most state and local regulations, allowing them to implement innovative ideas. Second, if these schools fail to attain outcomes as specified in their charter contract, they are put out of business.

Charter schools, therefore, offer a significant departure from the standard management structure of public schooling. However, if implemented as an *option* and if done initially on a *pilot* basis, charter schools offer many potential reforms for education. District boundaries would no longer dictate where a child attends school since charter schools serve as an enrollment option for students, parents, and teachers. Decentralization would be achieved by granting full control over the entire school budget as well as management and personnel decisions to school-based councils. Removal of most state and local regulations (other than those necessary to ensure safety, nondiscrimination, and high educational outcomes) would provide opportunities to be innovative and eliminate the ability to lay blame for poor achievement elsewhere.

On the other hand, charter schools continue to subscribe to the American democratic ideas of the common school--that all children have the right to a free public education. To this end, charter schools are to be tuition-free, non-sectarian, and cannot discriminate on the basis of race, religion, or disability. Although private schools can be brought into a charter school program, they need to meet the same standards as other public schools seeking charter status and public funding.

To date, eight states have passed some type of charter school legislation (see chart below) although many other states have considered similar action. This report provides information on activities and legislation in these states regarding charter school formation, including roles played by individual teachers and others as organizers, by local school boards as sponsors, and by county or state officials in providing an appeals process and technical assistance. Statutory requirements, legal responsibilities, funding mechanics, and employment issues including hiring and dismissal, collective bargaining, and job security are also detailed.

States with Charter School Legislation

Minnesota	(1991)
California	(1992)
Colorado	(1993)
Georgia	(1993)
Massachusetts	(1993)
Missouri	(1993)
New Mexico	(1993)
Wisconsin	(1993)

This report also offers recommendations to policymakers considering potential charter school legislation. The following provides a recap of the key issues:

- *Who should sponsor?* Local school boards represent an appropriate entity to sponsor charter schools; however, it is

important to establish a county or state appeals process for organizers who believe that a denial by a local board was inappropriate.

▸ *Which state laws/rules should remain?* Policymakers should not review every education-related law and rule to identify which should apply to charter schools. Instead, a general set of minimums should be established that focus on student outcomes; nondiscriminatory procedures; and the health, safety, and welfare of students.

▸ *What about the mechanics of funding?* Methods used across the eight states illustrate that direct funding to charter schools can be accomplished. Given, that some economies of scale will be lost when operating an individual school, charter school organizers should develop a "small business" financing plan.

▸ *Who should govern?* Since the legal and fiscal authority will reside at the school-level, the state should establish minimums regarding a charter school's local governance/ management structure. However, policymakers should resist the temptation to specify the exact composition in order not to "mandate decentralization."

▸ *How can resistance be overcome?* Efforts should be made to obtain input and to communicate with individual members of the local school boards association and teachers unions regarding their potential new roles. Local school boards will actually gain power by being able to develop performance-based charters with some or all of their schools and in turn will be freed from most state regulations; teachers will gain a stronger voice in the focus and management of their school.

▸ *What about private school inclusion?* States must give careful consideration to the question of including private schools in the chartering process. If included, they should be held to the same state requirements as other public schools seeking charter status.

▸ *Do charter schools conflict with consolidation efforts?* Steps should be taken to ensure that appropriate educational programming can be provided without additional costs. It is important that charter schools do not become eligible for "small school" weights or other similar support.

▸ *What role should the state play?* Providing technical assistance support for charter school organizers (including the development of a small business finance plan) and establishing a state or county appeals process are important. In addition, distribution of charter school information is also necessary.

▸ *Will charter schools cost more?* Charter schools can be initiated with fairly nominal state start-up costs; however, total costs are dependent upon specific legislative provisions. If the program is optional and begins with a small group of willing participants, no additional funding for training would be necessary. If the state chose to implement a program that is mandatory and/or includes a large percentage of schools immediately, additional training would be necessary. Also, if private school students are eligible to participate, additional costs would also occur since states are currently not paying for their education. In addition, state-level technical assistance and an appeals process would also cost a small amount. Finally, a continued look at funding equalization and at-risk support is important to ensure that all interested schools can develop the infrastructure necessary to move toward a charter school setting.

This report illustrates that charter schools appear to be a viable reform initiative. This is especially true for states in which "gridlock" has occurred regarding the creation of a school choice system, the decentralization of power to the school-level, and/or encouraging more innovative and accountable systems. Charter schools have the appeal of allowing these activities to occur within schools and communities that believe such changes will improve educational outcomes. Although the implementation of such schools will not be easy, the potential benefits of establishing charter school legislation outweigh the impending policy battles.

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Introduction

Despite the efforts of many dedicated professionals from within and outside the educational arena, the search for educational excellence is far from over. Many argue that the traditional structure of the public education system is outdated, and that systemic organizational restructuring must occur. In response, a myriad of sometimes conflicting ideas are offered as essential to restructuring the system, including choice, outcome-based education, accountability, competition, market-driven schools, site-based management, and teacher empowerment. Issues over what role state and local school boards should play in a restructured school system also fuel the debate. How best to create changes which draw upon these ideas and which mitigate to some degree the top-down versus bottom-up controversy is a central question whose answer may lie in something called "charter schools."

What Are Charter Schools?

In its "purest" form, a charter school is an autonomous entity that operates on the basis of a charter, or contract, between the individual or group (e.g., teachers, parents, others) which organizes the school and its sponsor (e.g., a local school board, county or state board). The charter specifies such items as the school's educational plan, specific educational outcomes and how they will be measured, the management plan for the school, and how the school will comply with other stated requirements.

Once granted a charter, the school begins to receive educational formula-driven funding as if it were a public school district. The charter is in effect for a specified period of time, during which the school is accountable to the sponsor and the parents for the students' attainment of specific educational outcomes. In exchange for accountability, the charter school may be freed from many (or all) district and state regulations that might inhibit innovation. When the initial charter contract is up, and if the school is meeting its student education outcomes, has not violated any laws or grossly mismanaged its affairs or budget, the charter can be renewed. If a charter school fails to attain outcomes as specified in its charter contract, it goes out of business.

Viewed as a departure from the standard format currently used to create and run public schools, charter schools are being promoted around the country as a means of integrating many of the restructuring ideas that heretofore have met with resistance. Operating as an existing public or private school under a charter contract, as a school-within-a-school, or as a newly created entity, it is believed that charter schools could provide more educational options for students, parents, and teachers. One goal is to increase learning opportunities by offering a particular curriculum focus, subscribing to a specific education philosophy, or utilizing innovative practices (e.g., multi-age classrooms, year-round schooling). These schools are also designed to draw on teachers' entrepreneurial spirit and to offer them new professional development opportunities. In addition, charter schools provide the public with schools that contractually define their accountability for students' educational outcomes.

It is important to bear in mind that the charter school concept is still fairly new and to date has been implemented to some degree in only eight states. Specific implementation mechanics vary from state to state depending on educational needs and political climate. Therefore, *no one definition or best means to implement charter school provisions exist.* This report represents an aggregate analysis of the charter school concept, with specific focus

on similarities and differences across states. It was developed through document analysis and telephone conversations with key people in each of the eight states that have implemented such provisions to date.

What's Happened So Far Across The Country?

Minnesota was the first state to grapple with the charter school idea and, in 1991, initiated "outcome-based schools" (i.e., charter schools) legislation. This law authorized the creation of up to eight legally and financially autonomous schools to be organized by certified teachers and sponsored by local school districts. During the 1992/93 school year, two of the eight permissible charter schools were operational. The first is located in a donated city recreation building in St. Paul and offers a year-round program for 35 at-risk adolescents and young adults from ages 13-21. The second is a private Montessori school, which converted to charter status in March 1993, educating children from kindergarten through grade six. Minnesota has the only legislation that does not prohibit private schools from applying for charter status.

Another four schools began operating under their charters during Fall 1993. The program offerings at these schools are diverse, including a school for deaf students, a vocational/technical school, and a pre-K through grade 12 school emphasizing the needs of at-risk students. The other schools also utilize various innovative practices such as multi-age classrooms, thematic learning, extensive parent involvement, year-round education, extended school day, and multicultural curricula.

During Spring 1993, the Minnesota legislature modified their charter school statutes allowing 12 additional (20 total) schools to be approved. They also prescribed an appeals process to their state board of education, heretofore excluded due to strong opposition from local school boards.

In September 1992, **California** adopted a charter schools law which allows the creation of up to 100 such schools in the state. Any individual can circulate a charter school petition which must receive sponsorship by the local school district. An appeal to the county board of education was included in the legislation. Whether a school receives legal autonomy is dependent upon the provisions of the charter agreement. Schools do receive their total funding independent of the school districts, although funding does flow through the districts before reaching the charter schools. To date, 40 schools have received approval, with a few operating under their charter beginning Fall 1993. Most, however, will begin operations as charter schools in 1994. This delay is due primarily to a variety of the charters being adopted as "developmental" (i.e., more details need to be developed prior to charter school conversion).

Like Minnesota, the California charter schools describe a wide variety of innovative strategies to be employed. However, unlike Minnesota, California has approved two charters using a home schooling approach in which the school operates as a resource center. In addition, one school will operate an English as a second language (ESL) curriculum; another school will utilize Edward Demming's Total Quality Management theory.

During Spring/Summer 1993, legislators in six additional states enacted some form of charter school law. The character of the new legislation in the six states is varied in its approaches to the

charter school concept and warrant brief exploration here.

Colorado: Passed in June 1993, legislation permits no more than fifty charter schools to be created prior to July 1997; at that time, the ceiling is removed. Any individual or group can enter into a charter school agreement with the local school board if "adequate" support from parents, teachers, and pupils is obtained. A charter school remains under legal authority of its school board, but receives at least 80 percent of per pupil funding from the district. Two schools have already been approved; several more are pending.

Georgia: Passed in 1993, this legislation allows an unlimited number of charter schools to be converted from existing public schools. Public school personnel may apply to the state board for charter status if the local board gives approval, if two-thirds of the faculty and staff approve, and if parents present at a meeting to initiate a charter school petition give their support. Schools are not legally autonomous from their districts, and the amount of funding is to be negotiated in the terms of the charter agreements. Charter agreements are to emphasize school improvement and student outcomes. It is anticipated that school proposals will be considered during Fall 1993, once the specifics of implementation are addressed by the state board.

Massachusetts: Part of a comprehensive school reform package, this state's charter school component will not be implemented until September 1995. Twenty-five public charter schools are permitted, in which two or more certified teachers, ten or more parents, or any other individual or group, may enter into a charter agreement with the state secretary of education. Other than Minnesota, Massachusetts has the only legislation that automatically grants charter schools legal and financial autonomy.

Missouri: Missouri's "New Schools Pilot" is a more formative version of the charter school concept. It is designed to test a revised management system within three existing school sites that volunteer to participate for a five year period beginning July 1995. Local school boards will apply to the state board of education to participate. Each site will implement a five member management team with two members permitted to be exempt from certification requirements. The functions of this management team are (at a minimum) to deal with all staffing and personnel decisions. The state board of education has autonomy to waive and implement rules for these schools.

New Mexico: Passed in 1993, New Mexico's legislation allows five existing public schools to be granted charter school status by the state board of education. Charter schools will continue to function under the legal authority of school districts, and administrative costs may be withheld by the districts. Regulations will be developed by the state board of education by Spring 1994, at which point applications for charter schools will be processed. In the meantime, the state board of education has provided ten schools with planning grants of $5,000 each.

Wisconsin: Legislation passed in August 1993, requires the state superintendent of education to approve the first ten charter school requests received. Charter schools can be created two ways. First, after receiving a petition from an individual (signed by at least ten percent of the teachers at the school district or 50 percent at one school and receiving approval from the state superintendent of public instruction), the school board must hold a hearing, and if adequate employee and

parent support are determined, may grant the petition. Under this provision, a school board may also convert all of its schools to charter status (a maximum of two per district) if the petition is signed by at least 50 percent of teachers employed in the district, and it provides alternative public school arrangements for children not wishing to attend charter schools. Second, the school board can generate and seek approval from the state superintendent for its own proposals and contract with a group or individual to operate the school. Regardless of the method used to create charter schools, they remain under local school district control and the level of funding is determined within the terms of the charter agreement. The state superintendent has already approved the first ten district generated requests; two more districts are on a waiting list.

During the past three years, attempts to pass charter school legislation have also taken place in several other states including Arizona, Connecticut, Florida, Louisiana, Michigan, New Jersey, Pennsylvania, Tennessee, and Wyoming. In each case, the debates surrounding the issue have been extensive. For example, in Arizona the concept of charter schools was offered by Governor Symington's Task Force on Educational Reform in 1991 within their recommendation to develop "New Arizona Schools." Although introduced in 1992 as part of a comprehensive legislative package, this concept failed due to both its lack of specific details and the political turmoil surrounding the overall reform attempt. A further effort to incorporate charter schools occurred in the 1993 legislative session within a larger educational reform package which was tabled until a budget could be developed to include with the bill. The concept is predicted to return in 1994.

In addition to state level activity, charter schools were also proposed (but not enacted) at the national level in 1992 within both S.2, the Senate's Neighborhood Schools Improvement Act, and in HR 4323, the House Education Improvement bill. As of October 1993, start-up funding slated to go directly to charter schools was included within the proposed reauthorization of the Elementary and Secondary Education Act. It is anticipated that Congress will begin hearings for the reauthorization of the Act in the Spring of 1994.

Finally, many local school systems have adopted their own version of charter schools, giving schools more control over their budgets and curriculum. A term unheard of just a few years ago, has now become part of state and local educational reform debates across the nation.

Note: Tables in Appendix A summarize the key provisions of charter school legislation within the eight states with such laws as of Summer 1993.

What is the Appeal of Charter Schools?

There are several reasons why charter schools are gaining attention around the country. First, charter schools address the issue of improving *educational choice* for students, parents, and teachers in a number of ways. For teachers, charter schools offer a chance to work in autonomous, innovative schools that attempt to utilize different philosophical approaches, educational programs, teaching methods, and assessment tools. New professional development opportunities are presented to teachers as they are directly involved in all phases of school operations, from curriculum planning to management.

In addition, charter schools subscribe to American democratic *ideals of the common school.* They ideally are tuition-free, non-sectarian, non-selective in student admissions, and cannot discriminate on the basis of race, religion or disability. Although private schools can be brought into a charter school program, it is expected that they meet the same standards as other public schools seeking charter status and public funding.

Charter schools can also address the issue of *decentralization* in a way that traditional site-based management activities may not. For example, in Minnesota and Massachusetts, charter schools are autonomous legal entities. They make all their own administrative and instructional decisions and are legally liable for them. This prevents problems encountered when schools are site-base managed, but the district remains legally liable for decisions made by school teams. In accord with this notion of autonomy, schools receive their funding directly from the state as if they were school districts. This financial autonomy component has been adopted to varying degrees within the other charter school states.

Many in education argue that given the restrictions and regulations imposed upon schools, creating truly different, innovative schools is nearly impossible. Charter schools address this problem directly by creating a unique trade-off between *autonomy* and *accountability*. After a proposal is approved by a local school board or other authorized sponsor, charter schools are generally left alone to manage their own affairs (e.g., lease space, hire personnel, contract for services, enroll students, operate a school). They are subject to the same audits and inspections imposed by school districts and the state, but are not held to all rules and regulations imposed by school districts and the state. Instead, they are subject to charter school laws which acknowledge their more autonomous nature. In exchange for this autonomy, they are held accountable for student outcomes as described within the charter agreement.

Finally, advocates of a more *market-driven* education system believe charter schools are a significant step in the right direction. By definition, these schools will be designed to attract educational consumers, thus introducing competition within the educational system. As the decision to attend a charter school is voluntary and lies with parents, they are free at any time to remove their children from the school. If the charter school is not producing the high student outcomes promised, not only will the end result be a revocation of the charter, but parents may "vote with their feet."

How are Charter Schools Generally Formed?

There are a number of players involved in the creation of a charter school. The process begins with a group of teachers or other individuals who want to create a charter school. Depending on how the state law is established, these individuals could be from within the public or private sector. These *organizers (i.e., petitioners, applicants)* develop a school plan, specifying all the details necessary to provide a comprehensive picture of what the school will be like and how it will be managed. To help the organizers draft a well-thought out and workable proposal addressing financial and other important issues, the state may provide some form of *technical assistance*. Once an initial proposal has been developed, the organizers present their ideas to a group called the *sponsor* that can legally enter into contract and hold them accountable for outcomes. Depending on the viability of

the plan, the sponsor may or may not approve the charter contract. If the organizers' plan is not approved and the group believes they have a viable plan, there may be an *appeals procedure*. There may also be another group which is responsible for *final approval* of each charter school. Finally, once a school is approved, legislation may prescribe the creation of an administrative body, referred to here as the *charter school governing body*.

Who Are The Key Players?

This section looks specifically at the role key players have in the charter school process. It focuses on relevant aspects of implementation in Minnesota and California as well as the laws recently passed in six other states. Appendix A summarizes information found in this section across all eight states.

Organizers

Conceivably, any number of individuals or groups could be designated in law to generate charter schools; however, teachers and parents are most commonly deemed the organizers. Also named in various legislation are community members, including people from organizations such as colleges and universities, non-profit social service agencies, corporations, museums, cities, and hospitals.

In Minnesota, the law has designated one or more state-licensed (i.e., certified) teachers as the organizers of charter schools. Others may join in the organizers' efforts, but a charter school proposal *must* be led by certified teachers. This arrangement was not the original intent of the charter school proponents in Minnesota; however, strong opposition from teachers' unions made it necessary to limit organizers to teachers in order to get the measure passed. Certificated teachers employed within private schools are also eligible to organize a charter school.

California law permits any individual or group, including teachers, parents, or others, to petition to start a charter school. However, before the petition can be considered by a sponsor, it must contain the signatures of at least 10 percent of the teachers in a given district in which the proposed charter school is to be located or at least 50 percent of the teachers in any school within that district. A specific level of teacher (and sometimes parent) support is also described in Georgia, New Mexico, and Wisconsin's legislation. Colorado's legislation simply require's "adequate" support.

In total, four states allow individuals outside a school system to initiate the process (California, Colorado, Massachusetts, and Wisconsin). The other states require individuals such as certificated teachers, school board members, or other school personnel to serve as organizers.

Sponsors/Appeal Process

The sponsor of a charter school is responsible for ensuring that the charter school proposal presented by the organizers is sound and will serve the needs of students. Sponsors designated by states' legislation now include local school boards, a county board of education, state boards of education, and the state superintendent or secretary of education.

In Minnesota, the law allows each local school board to sponsor a maximum of five charter schools. Given the concern that a school board may not want to approve a charter for a school in their district, the law allows (but discourages) charter school organizers to seek sponsorship from any local school board in the state. However, state personnel noted that the original

exclusive local school board sponsorship proved to be problematic. Many local boards were not supportive due to a potential funding loss as children leave to attend a charter school. Seeking sponsorship from another school board has also been difficult because school boards do not want to offend neighboring districts. Consequently, an appeal to the state board was built into the 1993 revisions to the charter school legislation.

Avoiding these difficulties, California selected school boards as sponsors but has also appointed an alternative sponsor as part of a formal appeals process. In this state, if a local school board denies a charter, the organizers can request that the county superintendent of schools appoint a review panel composed of teachers and school board members from other districts. The panel can request that the school board reexamine the proposal. If the school board still denies the proposal, the organizers can request the county board of education to hold a public hearing to review the proposal and establish the amount of parental and employee support. The county board may then serve as a sponsor and grant the charter school.

In the six states with new legislation, a variety of approaches were enacted. Colorado has an appeal process built into their legislation to prevent the problems initially encountered by Minnesota. Districts do not act as sponsors of charter schools in Massachusetts. Instead, organizers apply directly to the state secretary of education. In Missouri, the school districts apply to the state board in order to have a school be selected as a pilot site.

In New Mexico, Wisconsin, and Georgia, statutes provide that the local school board must be the key player in the obtainment of a charter. In New Mexico, existing school personnel and parents must apply through their school districts, which in turn, transmit the applications to the state board along with a recommendation. Although the power to approve or deny a request for a charter lies completely with the state board, the district must first approve a charter school's budget before the request can be considered for approval. Therefore, the district still has control over whether or not a proposal finds its way to the state board. In Wisconsin's approval arrangement, the local board sponsors the school but it must be approved by the state superintendent of education. No appeals process in described. Georgia's legislation includes an appeals process, whereby the district must forward the denied proposal on to the state board of education along with the reasons for the denial. However, the state board cannot overturn the school district's decision, thereby leaving the power of charter school approval with the district.

Technical Assistance

In Minnesota, technical assistance is being provided by the state department's enrollment options coordinator and school finance department so that proposals will have a better chance for sponsorship and approval. This assistance focuses on potential pitfalls, design considerations, and financial aspects of creating a school.

California legislation does not describe any form of state board guidance, noting that the state preferred to keep its charter schools' development in the hands of organizers and sponsors alone. However, it does require their state board to disseminate information and their state department to review the educational effectiveness of the program with a report due in 1999.

Of the six recent laws, only Colorado, Georgia, and Missouri prescribe technical

assistance as a responsibility of the state department of education.

Charter School Governing Body

Like other schools, charter schools must have some form of administration and governance structure to run their affairs (i.e., be responsible for the school's budget; contract for services; hire and dismiss staff; select curriculum and all other administrative functions of the school). Legislation may or may not describe a particular form of school governance which may take a number of forms.

In Minnesota, a charter school board of directors fulfills these responsibilities. First, a temporary board of directors consisting of the organizers and others interested in the approval of a school develops the plan for the school and works with the sponsoring school board to write the contract. After a school is approved, the temporary board has authority to hire staff and do what is necessary to establish the school. They also develop the protocol for the election of a permanent board of directors, which is voted on by the staff and parents of children who will be attending the school. The election is paid for with funds from the school's budget.

By law, the elected board of directors must consist of teachers, staff, and parents. Minnesota law does not specify the numbers from each group, but it does require that teachers compose a majority of the board. In small schools, there may be only three or four teachers, so these boards may be quite small. In a few cases where this has occurred, charter schools have set up local-level advisory boards to assist the board of directors in decision-making. Massachusetts charter schools will be governed by boards of trustees--an arrangement similar to Minnesota's, although the specific composition is not prescribed in legislation as it is in Minnesota's law.

California, Colorado, and Wisconsin's laws leave the form of school management entirely up to the school itself, as defined within the specific charter agreement. Missouri's management structure is a major focus of their New Schools Pilot Project. Legislation requires that the five member management teams be composed of the principal and four other members, two of whom may be exempt from state certification requirements. Finally, neither Georgia nor New Mexico's legislation mentions a management structure. As state board rules and guidelines are being developed, describing a school's governance structure is likely to be a required part of a charter school proposal.

Final Approval

Some legislation specifies a second level of approval beyond the sponsor's approval which acts as a kind of check and balance. Minnesota charter school organizers must first receive sponsorship by a school board and then also be approved by the state board of education. This final review by the state board can provide a second check to ensure a level of quality and consistency among charter school contracts or to simply log the number of established schools. Georgia, Missouri, and Wisconsin also have the state board or superintendent as a final approval.

California legislation does not designate any approval beyond that of a sponsoring local school board or a county board of education. Colorado, Massachusetts, Missouri, and New Mexico also do not require another level of approval.

What are Charter Schools Required to Do?

In most states, charter schools are exempt from the vast majority of state laws and state board rules that apply to public school districts. Charter school legislation often contains specific provisions that charter schools must follow at a minimum and allows additional provisions to be added as negotiated between the organizer and the sponsor.

There is a broad range as to what actually is, or will be, required of charter schools in each state. Some states, such as Minnesota, describe in very concrete terms what and how things will be done. Other states leave more to the discretion of the charter school or the district. Examining provisions in Minnesota and California provides for a good comparison between these two approaches.

Within these two states, many charter school requirements are quite similar in that prior to approval organizers must develop a fairly detailed description of the proposed education program, the specific outcomes pupils are to achieve, the proposed governance/management structure, and procedures to ensure the health and safety of students. For example, in Minnesota, the proposal must contain details regarding the educational program of the school; which of the purposes named in the legislation it will serve; learning outcomes and how they will be measured; instructional approach; length of the school year; the age/grades to be served; classroom organization; the management and administration plan for the school; the first year budget; method of student and financial accounting; and types and amount of insurance coverage.

Minnesota's charter school law, however, tends to be more specific than the California law. For example, Minnesota's law requires that districts grant a leave of absence for teachers wishing to teach in a charter school and prohibits charter school teachers from remaining a part of the district collective bargaining unit (they may create their own instead). In California, organizers are required to address these same issues in their charter contract but are allowed to determine what the specific provisions will be.

Both states took the approach that charter schools will be held only to the state laws and state board rules that are specifically stated and/or referenced in the charter school law, rather than trying to list all the things they are exempt from. Of the new charter school states, only Georgia and Wisconsin's statutes prescribe the possibility for automatic release from most of the education code, as well as selected parts as agreed to within the charter in Wisconsin. The other states either allow the district and school to jointly determine which regulations are to be waived or the state board of education determines which rules should apply to charter schools.

Of the states adding legislation in 1993, Colorado and Wisconsin provide a level of detail that is comparable to Minnesota's. Georgia's legislation is less detailed, but places emphasis on requirements which will document whether school improvement and improved student learning are occurring. Requirements for New Mexico charter schools are, at present, minimal. Petitioners must include a plan to implement alternative curricula, a detailed budget, a description of parent involvement in developing the proposal, and a minimum of 65 percent teacher support. No other items are described within the charter; however, as the New Mexico State Board of Education forms rules and regulations for charter schools, this may change. Neither Massachusetts

nor Missouri describe any required elements for charter school proposals or agreements.

What About Admission Standards?

Given that charter schools are intended to provide an open enrollment option to students and parents, concerns arise over adequate safeguards against selective and potentially discriminatory admission criteria, and "white flight." Laws in each charter school state require that charter schools be nonsectarian and tuition-free, and that they develop admission procedures that do not discriminate against pupils on the basis of ethnicity, national origin, gender, or disability. In addition, Minnesota, California, Colorado, and Wisconsin require charter schools to address racial and ethnic balance issues. To this end, Minnesota's law states that a charter school *may* limit enrollment to residents of a specific geographic area if the percentage of non-Caucasian population in the geographic area is greater than the percentage of the non-Caucasian population in that congressional district. Colorado law specifies that charter schools are subject to the same court ordered desegregation orders that affect other schools, while Wisconsin's law states that charter agreements must address the means of achieving racial balance.

Given that charter schools may offer a special type of educational program, a question arises as to whether special admission requirements can be established (e.g., dress codes, parental participation). In response, Minnesota law states such schools *may* limit admission to pupils within an age group or grade level, and pupils eligible for participation in a special state graduation incentives program. The original legislation also allowed charter schools to limit admission to pupils who have a specific "affinity" for the school's teaching methods, learning philosophy, or subject offerings, although measures of achievement or aptitude, or athletic ability were not permitted to determine affinity. This clause was removed during the 1993 legislative session.

Finally, questions arise concerning the attendance "rights" of students who live near a charter school. Most states give admission preference to those pupils residing within the attendance zone of the school with the exception of Missouri, New Mexico, and Georgia, which do not directly address the issue. California and Wisconsin, which permit whole districts to convert to charter status, require charter proposals to describe the public school alternatives for children in the attendance zone of a charter school.

Who is Legally Responsible?

Depending on legislation, charter schools may or may not be organized as autonomous legal entities. In Minnesota, the organizers of a charter school must operate as either a cooperative or as a non-profit organization. This provides the legal basis for a charter school's autonomy.

Charter schools in Minnesota must carry their own insurance, which would be similar in type to what is required of a school district, but a lesser amount. The board of directors of a school may sue and be sued; however, the law specifically grants the state board of education and local board sponsors immunity from civil or criminal liability with respect to all activities related to an outcome-based charter school they approve or sponsor.

Massachusetts law also designates charter schools as legally autonomous, and is described in law as "... a body politic

and corporate with all the powers necessary and desirable for carrying out its charter program..." Included within this clause is the adoption of a corporate seal, the ability to sue and be sued, acquire real property, make contracts and leases, incur temporary debt, and solicit and accept grants and gifts.

In California, depending upon the provisions of the individual charter contract, schools may or may not become autonomous entities in reference to legal liability issues. Since the provisions of the charter serve to override all other state laws and state board rules, the local school board may not be held legally responsible if the charter contract states that the charter school has legal autonomy. Colorado legislation is similar with regard to legal autonomy. Georgia, Missouri, New Mexico, and Wisconsin, continue to operate under the legal authority of school districts.

With the passage of both Minnesota and California legislation, charter schools' legal autonomy was as central to the charter idea as was its funding autonomy. The laws passed in 1993 illustrate that the charter school concept has been diluted to some degree to accommodate states' political needs (i.e., with the exception of Massachusetts, only limited funding and legal authority is being automatically granted to charter schools).

How are Charter Schools Funded?

In both Minnesota and California charter schools are funded as though they were stand-alone school districts. However, because of the differences in school financing between the states, the mechanics differ.

Of the six new laws, only Massachusetts has granted charter schools complete funding without connection to a school district. The remaining states negotiate with school districts for the level of funding, although some states restrict the total funding amount which can remain with the districts. Overall, the amount of funding is often dependent on the kind of services that districts will continue to provide to schools.

Basic Operational and Minor Capital Funding

In Minnesota, charter schools are generally eligible to receive their portion of *state* monies, but cannot receive any local levy funding (similar to Arizona's override provision) or any state funding that requires a local levy match. This means that the department of education calculates the state average general education revenue for that year and provides this amount per weighted average daily membership (i.e., student count) *directly* to the charter school. In addition, state and federal funding for special education, compensatory revenue, limited English proficiency, vocational, and other special programs is provided given that no local funding is required as a match. This formula funding also includes a small amount to be used for minor capital expenditures. In recap, Minnesota charter schools are eligible for a large percentage, but not all of the funding that they might have had available to them if they had remained part of a school district. Local bond and levy funds, as well as any state funding that requires a local levy match, are not distributed directly to them.

In California, the operational funding made available to the charter school is basically determined by taking the total amount of *local and state* formula-driven funding available to the school district in which the charter school is located, and

dividing that by the charter school's weighted average daily student attendance. This formula amount includes state and federal funds for special education students served, includes funding for transportation (if provided), and funding for smaller capital items such as furniture and books. Therefore, the total amount received by any given charter school is the school's portion of the state and local funding that would have otherwise been provided to the district. Funds go from the state to the district, then on to the charter school.

Legislation in Colorado, Georgia, and Wisconsin, requires that charter school funds first flow to the district and then a portion of that amount passes on to the charter school. However, the level of funding schools are to receive varies by state. Colorado mandates that at least 80 percent of the per pupil funding flow from the district office to the charter school. New Mexico's legislation indicates that districts may retain an amount not to exceed the district's administrative costs for the charter school. Districts must also set up a separate charter school account into which public school fund disbursement will flow. In Wisconsin, it is determined in the school's charter contract how funds will be allocated to the school. However, there is a requirement that the amount spent per charter school pupil not exceed the average amount spent per pupil in the district.

Major Capital Expenses

In California, Minnesota, and Massachusetts, charter schools are *not* eligible to receive any portion of the bond funding commonly used by school districts for major capital construction, acquisitions, and repairs. Instead, they are encouraged to work out agreements within their charter contracts regarding the use of existing district space and/or the leasing of other building space using their operational funding. In Colorado, all districts must provide space for charter schools free of charge if space is available. However, if a district is considered to have a high growth rate and no available space, they may charge rent to the charter school. Charter schools in Georgia, Missouri, New Mexico, and Wisconsin all remain part of school districts. Therefore, capital expenses are handled in a manner similar to other district schools.

Special Education

In Colorado, charter schools will count any special education pupils served in their student count and therefore directly receive any corresponding local, state, and federal special education funding. California charter schools receive at least the district portion of special education funds. In Minnesota, the charter school counts special education students in their formula and receives the corresponding funding. In addition, the charter school bills the district of residence for excess costs of providing special education services.

New Mexico charter schools will bill the district of residence for special education services; special education students continue to be counted in their district of residence. The other states have not yet resolved this issue.

Transportation

Transportation in the Minnesota charter school program is handled in a manner similar to their other open enrollment provisions. That is, the district in which the charter school is located is responsible for transportation of students who live in the district, and ultimately will be reimbursed through their formula for transportation. Those students who live outside the district borders are responsible for their own transportation to the border of the district that contains the charter school (with reimbursement occurring for low-income

families). From there, the district in which the school is located may transport the child to school. Continuous home to school service can be provided by the district in which the charter school is located through local agreements. Bus passes are being used in situations where the transportation schedule needs of the charter school (e.g., longer day and/or year program) differ from that of the district. However, this issue has not been resolved regarding young children or if public transportation is not available. Transportation will be handled in a similar manner in Massachusetts.

In California and New Mexico, provisions regarding transportation responsibilities are not specified within the charter school law and are to be worked out as part of the charter contract. However, funding for any transportation provided would go directly to the charter school as part of their general operating funding. In turn, the charter school could use this funding to contract with the district or other entity to provide transportation. Colorado must include in its contract a plan to meet the transportation needs of students, if transportation is to be provided.

What About Employment Issues?

One of the most politically-charged components of a charter school program is resolving employment-related issues. As teachers may or may not be district employees, many questions are raised. Who will hire and release school personnel? What rights will teachers have regarding collective bargaining? Will teachers in charter schools have job security? What about retirement benefits?

Employment and Dismissal

Massachusetts and Minnesota law specifically states that a charter school's board of directors/trustees is responsible for employing and contracting with teachers, as well as hiring their non-teaching staff. The board also dismisses teachers and other staff as needed. In Missouri, personnel issues are the domain of the management teams.

In California and Colorado, provisions regarding who hires and fires school personnel are to be developed as part of each charter school contract. In Georgia and New Mexico, teachers are considered employees of the district; therefore, the district handles all hiring, dismissals and other personnel issues. In Georgia and Wisconsin, it is anticipated that employment could become the responsibility of the governing body if negotiated within the charter. It was noted by state department personnel that some of the employment provisions are yet to be clarified.

Collective Bargaining

Massachusetts and Minnesota law states that teachers in charter schools may form a collective bargaining unit within their school, but that this unit must be separate from any other unit (i.e., the charter school teachers may not bargain as part of a school district unit). Charter schools also have the choice not to enter into collective bargaining at all.

California and Colorado leave the decision regarding collective bargaining up to the individual school as specified within their charter contract. This means that a school may choose not to allow collective bargaining, they may allow the creation of their own unit, or they may follow the collective bargaining agreements of other school districts.

New Mexico and Wisconsin legislation have charter schools as district employees and bargaining occurs at the district level. Collective bargaining does not occur in Georgia or Missouri.

Job Security and Retirement Benefits

Whether teachers choosing to teach in a charter school have a right to return to their previous employment depends largely on the nature of the relationship charter schools have with the districts. If teachers continue to be considered district employees, job security and retirement are generally uninterrupted. However, in the case of Minnesota and Massachusetts, where teachers are viewed as employees of the school, a more formal procedure is put in place to ensure teachers' rights to employment.

In Minnesota, school districts must grant a leave of absence to any teachers who wish to teach in a charter school for any numbers of years; this ensures that teachers have the ability to return to a position in a district school (i.e., job security). They may also continue to collect their retirement benefits by contributing both the employee and employer contributions of their retirement account.

Districts in Massachusetts must grant teachers a two-year leave of absence which can be extended for another two years. After the four years, teachers must either resign from the district or return to their previous position. Colorado also provides teachers with a similar leave of absence which can be renewed up to three years.

California law requires that charter schools provide a description of proposed job security and retirement rights as part of their charter contract; however, no specific guidelines are offered in statute. Instead, each individual charter school will need to work this out with their sponsor. It was noted that there could be some uncertainty if indeed a county board serves as a sponsor since this board cannot compel a school district to give the charter school employees the right to return to their employment.

In Georgia, Missouri, New Mexico, and Wisconsin, teachers are still considered district employees so teaching in a charter school is not subject to different employment arrangements than other teachers in the district. However, Wisconsin allows this to be subject to the terms of the charter.

What are Key Policy Considerations?

For reasons highlighted initially, it appears that charter schools are a viable reform initiative. This is especially true for those states in which "gridlock" has occurred regarding the creation of a public or private school choice system, the decentralization of power to the school-level, and/or encouraging more innovative and accountable systems. Charter schools have the appeal of allowing each of these activities to occur within schools and communities that believe such changes will improve educational outcomes.

In addition, given limited funding to provide large scale training and funding support, offering a charter school-type *option* for communities may allow states to progress with educational restructuring activities during tight fiscal times. Indeed, additional training for teachers, parents, and other school-based personnel to support their new roles is desirable, but it may not be essential for the first group of schools willing to pioneer the concept. However, a continued look at funding equalization and at-risk support is

important to ensure that all interested schools can develop the infrastructure necessary to move toward a charter school setting over the next few years.

The following represent some, but not all, key questions that need to be addressed by policymakers when they consider charter school legislation. Unfortunately, no "correct" answers exist; each state must determine how best to implement charter schools within their current financial and political climate. What follows is a recap of key issues and food for thought.

1) Which entities should be allowed to sponsor charter schools?

Deciding which entities should be allowed to approve or disapprove a charter school proposal will evoke much debate. In Minnesota, schools must first seek approval from a local governing board and then the state board of education. However, if a district denies charter status, organizers can now appeal to the state board of education. Under the original arrangement, although schools were allowed to seek sponsorship from a school board other than their own (and still are), local boards held a monopoly over the implementation of charter schools since no formal appeals process existed. For this and other reasons, the approval and implementation of charter schools was very slow. District reluctance to sponsor schools prompted legislators in 1993 to build in an appeals process to the state board for instances when districts deny charter status.

In California, approval must be first sought from the local board of the district in which the school is located. If approval is denied, a county-level appeals board is established consisting of school board members and teachers from other districts in the county. This county-level appeals board has the right to grant a charter directly to the school. It was noted that initially a state-level board was considered, but the general feeling was to limit any state involvement.

It seems imperative that other states considering adopting charter schools must give sponsorship serious consideration--*identification of a cooperative sponsoring body is instrumental to the successful operation of a charter schools program.* Local school boards appear to be likely candidates, especially when legal liability remains with the district. Problems could easily arise when districts are not involved in sponsorship in any way, but must be legally and fiscally responsible for the charter school. Providing two different sponsoring agents with one being local districts would still allow the opportunity for progressive districts to undertake a new policy role focused on educational outcomes and evaluation of progress. However, experience in Minnesota suggests that *alternative sponsors should be available* to which organizers can appeal if their proposal has been denied by their first potential sponsor.

2) Which specific state laws/rules should charter schools be held to?

Given recent calls to remove state and local-level barriers to restructuring as well as the need for higher levels of accountability, charter schools appear to offer a viable structure for state reform. Many current state laws and rules focus on program/fiscal accountability requirements, certification standards, and schooling minimums (e.g., length of day/year). However, the vast majority of these laws focus on inputs rather than outputs. While current state waiver provisions are a step in the right direction, seeking approval on a case-by-case basis can consume a great deal of energy. Instead, what California, Minnesota, Georgia, and Wisconsin have attempted to do is identify the minimum "outcome" requirements and passed

legislation that freed their charter schools from having to focus on other requirements included within the education code. The other states allow certain components of the education code be waived either by the state board or within individual charter agreements.

One could argue that instead of creating charter schools, focus should be placed on freeing all schools from non-essential state laws and rules. While this is a worthy goal, the difficulty lies in being able to identify on an a priori basis an exact list of minimum standards and to develop and monitor performance contracts with every school in the state. Instead, charter school legislation allows a more manageable number of schools to work through the "bugs" of any significant legislative reform initiative. Within a few years, a more definitive list of state minimums can be established, along with a streamlined process to help schools focus primarily on outcomes.

In trying to identify minimum requirements for charter schools, policymakers should not go through every education-related law and rule to identify which should apply and what can go. Little will be accomplished given that many laws were enacted to meet the needs of various interest groups. Instead, a *general set of minimums should be identified* that focus on high standards and outcomes for students, guarantee nondiscriminatory procedures, and ensure the health, safety, and welfare of students. Then, through the process of working with a smaller group of charter schools during the first few years of the process, additional safeguards/standards can be included if needed.

3) Should the mechanics of funding a charter school prevent the state from moving ahead?

One of the concerns with traditional school-based management activities is that personnel at the school-level end up with a very limited portion of their budget to actually manage. With the exception of Colorado and Wisconsin, charter schools have control over nearly 100 percent of the funding currently generated through the students they serve. Colorado charter schools receive at least 80 percent. However, with this decentralized funding several real concerns arise. First, the mechanics of actually implementing such a system are often overwhelming. Second, given that many administrative-type services currently provided by the district office (e.g., transportation, accounting, personnel background checks) result in economies of scale, it may be difficult for charter schools to support such tasks.

In response to funding mechanics, both California and Minnesota have found acceptable, but not "perfect" methods of accomplishing this task. In California, charter schools basically get their entire "portion" of state and local funds that normally would have gone to their district, except for local bond funds. In Minnesota, charter schools receive a state average amount per student, plus other applicable state and federal monies. But, they do not have access to local levy or bond funds and it was also noted that during their first year of operation they are not eligible for the portion of funding driven by a prior year student count (approximately 15 percent). It was noted that in California, the inability to directly access is not perceived to be that much of an issue, whereas in Minnesota, the loss of local levy and bonds funds is having an impact. However, in both cases, it was noted that these funding system "imperfections" are not that great given what charter schools are attempting to do.

The loss of economies of scale issue is also a viable concern, however, it also is not great enough to prevent progress. In most states, the laws simply state what funds will and will not be available to those considering the charter school concept. Then it is up to the individual organizers to decide if they can run a school on this amount of funding. Minnesota state personnel noted that part of their technical assistance support is to help interested organizers develop a "small business plan" which seriously looks at what finances they will actually have available to them. Through this process of planning, potential organizers can determine the feasibility of operating their school on the funding driven by their student count. This "ounce of prevention" process should be considered in other states.

In addition, it was repeatedly noted that charter schools are intended to provide avenues for innovative individuals and groups to develop more educational options for students, parents, and teachers with the goal of higher outcomes. Indeed, it is envisioned that *creative solutions in reference to leasing space, subcontracting certain costs to another school district, and a streamlining of costs due to fewer state requirements may overcome most real and perceived problems related to the funding of these schools.*

4) What type of local school governance structure should be established?

Much debate has already occurred in states that have considered the initiation of school site management teams. Major issues evolve around whether the legislature should prescribe in law the exact composition of such a team, how it should be formed (elected versus appointed), and specific powers. Unfortunately, evidence from existing site-based managed programs across the county reveals pros and cons with each scenario.

In Minnesota, the law prescribes minimal guidelines whereby a charter school board of directors must be established through an election process and that the majority of its members must be teachers employed at the school. In addition, the law indicates that this board has full authority over all operations of the school including budgetary and personnel issues and that it can sue and be sued. Indeed, the law clearly states that the charter school and its board becomes fiscally and legally autonomous, with oversight provided by the local school board sponsor through the charter contract.

In California, these types of issues are not prescribed specifically in their charter school law; instead, it indicates that the petitioners must detail within their proposal how they plan to address each of these management activities. It was noted that the charter school petitioners and the potential sponsor are to work out these issues as part of the contract. This is also the case with Colorado, Georgia, and Wisconsin. Massachusetts deems that charter schools will be run by a board of trustees, while Missouri specifies the make-up of the management team to run the school. New Mexico only specifies that the school's budget is to be managed in a site-based manner.

The approach taken in the states is fairly different in reference to prescribing specific management configurations. *State provisions, however, must involve a certain amount of "trust" in that certain details are left to be worked out between the school and its sponsor.* Once again, if the total number of allowable charter schools is kept fairly small, these types of issues can be worked out within the pioneering communities. Although it appears that

certain minimums are important, additional specificity can be added to the law at a later date if concerns arise.

5) How do you overcome potential resistance from local boards and teacher associations?

In most states, the development of charter schools will be viewed as a significant threat to the traditional roles of school board members and the collective bargaining power of teacher units. To this end, policymakers need to obtain feedback from these groups as legislation is considered and to help individual members of these organized groups realize their potential new roles. For example, in California it was noted that many local school boards will actually gain in power by being able to develop performance-based charters with some or all of their schools and in turn the board and the schools will be freed from most state regulations. Teachers also have a lot to gain by being able to have a much stronger voice in the overall focus and management of the school.

Just as important as good communication, is the need to maintain the "voluntary" nature of the charter school concept. Although state-mandated decentralization would result in extensive changes more quickly, the amount of negative energy created by local resistance to such mandates tends to offset real progress. Instead, charter school offer a voluntary means for teachers and others who are ready to take on this new challenge.

Finally, it is important to include some mechanism to ascertain the "real" support of teachers and parents in a given community seeking to establish a charter school, especially if considering the conversion of an existing school to a charter school. The potential in-fighting that could result from the efforts of organizers when no support exists, could threaten the effective operation of an existing school as well as the conversion process if the school is approved. Even teachers who develop plans for a new school may find great opposition from their colleagues and administration who may view the plans as an attempt to say that the current school is somehow faulty. To this end, California, Colorado, Georgia, and New Mexico, all require a certain level of support from existing teachers (and often parents as well) before a charter petition or proposal can be approved.

6) Should private schools be considered for inclusion?

One of the key issues that needs to be addressed is whether to allow private school participation in a state's charter school program. Minnesota is the only state that allows existing nonsectarian private schools to be eligible for charter status, while in California no currently operating private school is eligible (although it was noted that a private school could be eligible if it chose to create a new public school from scratch). All other state legislation specifically forbids the inclusion of private schools. It was also determined in each of the states that any charter school could not charge tuition, must be nonsectarian and must be non-selective and non-discriminatory in their admissions.

One rationale for including private schools is that many have effective educational programs and have already developed some of the characteristics that charter schools are trying to promote. A key argument against inclusion is that a level playing field does not currently exist given the admission selectivity of private schools. However, *provisions similar to Minnesota whereby private schools are eligible if they agree to meet those state laws applicable to charter schools, may make this option more viable.* The decision

to include or not include (with restrictions) appears to be primarily a political issue, although if large numbers of private school students become involved, it also becomes a financial issue.

7) Will charter schools conflict with state efforts to consolidate school districts?

Thoughts must be given to whether small schools that otherwise would be slated for closure due to limited economies of scale should be allowed to charter themselves. This issue has given rise to much conflict in Minnesota given the state's consolidation plan which aims to close very small schools to increase efficiency. Several groups of teachers and parents have attempted to use the charter school process to preserve their community schools, especially at the elementary school level. To date, of the three schools that applied for charter status in an effort to remain open, only one has been successful.

On the other hand, if potential school organizers can demonstrate through their charter proposal that they can operate on the funding amount driven by their small student enrollment, then perhaps size is not as important. However, *steps should be taken to ensure that adequate and appropriate educational programming can be provided without additional costs.* To this end it is important to ensure that these schools do not become eligible for "small school" weights or other supports.

8) What role should the state play, if any, in providing technical assistance?

Allocations for technical assistance were not included in any state, although the department of education is to provide assistance in implementing charter schools in four of the eight states.

In Minnesota, the state board of education provides final approval. Their state department has chosen to provide technical assistance for interested organizers and sponsors, using an existing infrastructure already in place for their other open enrollment programs (e.g., transportation fund, staff). In addition, Minnesota already provides funding to all school districts for staff development in their school finance formula. The legislation in Colorado, Georgia, and Missouri all describe the state departments of education as being responsible for the provision of technical assistance.

California's state board is required to distribute information and the state department of education must review the educational effectiveness of the program, with a report due in January 1999. Beyond these tasks, it was noted that technical assistance was not going to be provided from the state at this point, given the smaller scale and general flexibility of their program.

If, however, a state wishes to ensure that charter schools are implemented as quickly and smoothly as possible, *the state could play an important role in providing technical assistance and overseeing an appeals process.* Support to help potential charter schools develop a small business finance plan and comprehensive charter provisions should be provided, especially if a state heretofore had not provided additional support for staff development.

9) Will charter schools cost more?

Always a key question in tight fiscal times, the answer to this question is, it depends. In seven of the eight states, no additional money was appropriated to support their charter school programs (New Mexico has awarded $5,000 planning grants to each of 10 schools). However, in all cases, the programs are voluntary and are beginning with a very small percentage of their total school population. *If a state*

chose to implement a program that was mandatory and/or hoped to include a very large percentage of schools immediately, then additional funding would indeed be necessary.

In addition, funding may be necessary if a state or county appeals process is established and/or if some state technical assistance is made available. However, the amount would not necessarily need to be that significant (e.g., $75,000). The potential advantages of this type of support for a charter school concept makes such an appropriation worth considering.

Finally, if private school students are permitted to participate, additional costs may be incurred since states are currently not paying for their education. Some propose that a smaller portion of state funding per pupil could be provided, therefore "saving" money on each public school student that moves to a private school charter. However, if one goal is to have charter schools be tuition-free, then this approach would not be as feasible since participating private schools could not use tuition to augment their funding.

Will Passing Charter School Legislation Be Easy?

The legislative experiences of Minnesota and California have demonstrated that passing charter schools is not an easy process. Minnesota finally passed their outcome-based school law on the third try, and only then because of major compromises. It was noted that there was strong opposition from teacher unions, school boards, and others who had a stake in the status-quo.

California has also had its experience with the rigors of passing charter schools in that two distinctly different charter school bills were offered to the governor by the legislature. The one ultimately signed did not have the support of the teacher unions given its certification, collective bargaining, and open enrollment provisions. Since the teachers' union had supported a different stance on these issues, controversy over charter schools continues in that state.

Reports from the other states regarding the difficulty in passing charter school legislation are mixed. In general, the strength of unions and the level of specificity contained in the legislative language mitigate the heat that this reform has generated.

Overall, however, the potential benefits of establishing charter school legislation--especially as they relate to pulling together the various reform concepts--outweigh the impending policy battles. Offering a program that is voluntary, provides for true decentralization, includes contract-based accountability, allows greater professional opportunities for teachers, and creates more educational choices for students, parents, and teachers, is worth exploring. Will it be easy? Evidence from Minnesota, California, and several other states that have tried suggest not. Will it be worth it? Only time will tell as more states take on the task of negotiating outcome-based "charter school" provisions as part of their continued search for educational excellence.

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APPENDIX A:

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Comparison of Charter School Laws

COMPARISON OF CHARTER SCHOOL LAWS

STATE YEAR PASSED	MINNESOTA 1991	CALIFORNIA 1992	COLORADO 1993	GEORGIA 1993	MASSACHUSETTS 1993	MISSOURI 1993	NEW MEXICO 1993	WISCONSIN 1993
GENERAL ISSUES:								
Date of Implementation	1992	1992	1993	1993	1995	1995	1994	1993
Number Allowed in State	originally 8, increased to 20 in 1993	100	50 up to July, 1997, after which limit is removed	no limit	25; # of charter students not to exceed .75 of 1% of public school students	3	5	10
Number Allowed per School District	originally 2, increased to 5 in 1993	10	—	no limit	≤ 5 in Boston ≤ 5 in Springfield ≤ 2 in any other city	1	—	2
Preference Given to	—	schools which target low-achieving students	schools which target at-risk students (13 of 50 must focus on this)	—	—	1 school performing above average; 1 at average; and 1 below average	—	schools which will serve children at-risk
Automatically Free from State Eduction Code/ District Rules	yes	yes	no, only from state/district policies as agreed to in charter	yes, possibly most; or from state/district policies as agreed to in charter	—	no, state board of education may waive rules and regulations	no, must apply to state for waivers	yes
Legally Autonomous	yes, organized as non-profit or cooperative	depends on charter	depends on charter	no, under local board authority	yes, organized as corporation	no, under local board authority	no, under local board authority	no, under local board authority
Autonomous for 100% Funding	yes	yes	no, get at least 80%	no, funding amount established in charter	yes	not yet determined	no, appropriate administrative costs can be withheld	no, funding amount established in charter
Length of Charter	up to 3 years	up to 5 years	up to 5 years	3 years	5 years	5 year Pilot Project	5 years	up to 5 years
Private School Eligibility for Charter Status	yes, but must follow charter school laws	no	no	no	no	no	no	no
Public Schools Eligible for Charters	new, existing, school-within-a-school	new, existing, school-within-a-school	new, existing, school-within-a-school	new, existing, school-within-a-school	new, existing, school-within-a-school	entire existing schools only	entire existing schools only	new, existing, school-within-a-school

— = not addressed in legislation

STATE YEAR PASSED	MINNESOTA 1991	CALIFORNIA 1992	COLORADO 1993	GEORGIA 1993	MASSACHUSETTS 1993	MISSOURI 1993	NEW MEXICO 1993	WISCONSIN 1993
GROUPS INVOLVED IN THE PROCESS:								
Organizers	licensed teachers	any individual can circulate a petition to start a school	any individual or group	any Georgia public school faculty/staff	≥ 2 certified teachers, or ≥ 10 parents, or any other individuals or groups	local school board	existing school personnel and parents	any individual or the local school board
Sponsor	any local school board	the local school board	the local school board	the local school board	state secretary of education	state board of eduction	state board of education	the local school board
Final Approval	state board of eduction	none needed	none needed	state board of education	none needed	none needed	none needed	state supt. of public instruction
Appeals Process	state board of education	county board of education	state board of education	state board allows resubmission of petition	none	none	none	none
Support Needed from Teacher/Staff/ Parents	90% of teachers at the school	10% of teachers in school district or 50% of teachers at a school in the district	"adequate number" of parents, teachers, pupils	>¼ of faculty and staff >¼ parents in meeting to initiate petition	—	—	65% of faculty, and parent involvement and support	10% of teachers in district or 50% at one school in district required in some cases
Technical Assistance Required by Law	state department of education	not required but state board disseminates information	state department of education	state department of education	—	state department of elementary and secondary education	—	—
School Governance Structure	board of directors (≥ 50% must be teachers at the school)	as specified in charter agreement between applicant and local board	as specified in charter agreement	as specified in charter agreement	board of trustees	5 member management team: 3 must be certificated, 1 serves as principal	budget is site-base managed	as specified in charter agreement

— = not addressed in legislation

STATE YEAR PASSED	MINNESOTA 1991	CALIFORNIA 1992	COLORADO 1993	GEORGIA 1993	MASSACHUSETTS 1993	MISSOURI 1993	NEW MEXICO 1993	WISCONSIN 1993
ADMISSION STANDARDS:								
Cannot Limit Student Admission Based on:	race, ethnicity, religion, intellectual or athletic ability, measures of achievement or aptitude	race, ethnicity, religion, national origin, gender or residence of pupil	disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services	–	race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in English language, or academic achievement	—	—	sex, race, religion, national origin, ancestry, pregnancy, marital/parental status, sexual orientation, physical, mental, emotional or learning disability
Can Limit Student Admission by:	age, grade level	admission reqs if applicable; however, must be nondiscriminatory	—	—	grade levels, areas of focus of school, maintenance of reasonable academic standards	—	—	admission reqs if applicable; however, must be nondistriminatory
Priority Status for Resident Students	yes, priority is granted as long as school reflects racial and ethnic diversity of area	an existing school converting to charter status must give preference to resident students	open to any child residing in district, if district has open enrollment, then out of district students may attend	priority given to students in attendance zone; other students permitted as per charter	priority is given to students residing in city/town where school is located and siblings	—	(as per ed. code) priority is given to students in attendance zone of school	priority is given to students in attendance zone of school
EMPLOYMENT ISSUES:								
Charter School Teachers	certified teachers only	charter must specify required employee qualifications	certified teachers (unless approved for waiver)	certified teachers (unless waived)	certified teachers	certified teachers	certified teachers (unless waived) or alternative licenses	licensed teachers
Job Security	districts must grant teachers leave of absence for length of time requested	charter describes teachers' rights to return to district employment	get 1 yr. leave of absence that can be renewed; at end of 3 yrs, a return is negotiated	remain district employees	districts grant teachers 2 yr. leave of absence; can extend for 2 yrs. then teacher must resign or return	remain district employees	remain district employees	remain district employees
Retirement Benefits	employees have district retirement benefits by paying all contributions	must specify manner in which employees will be covered by state or federal retirement system	members of public employee retirement assoc. or Denver Public Schools retirement	remain district employees	eligible for state teacher retirement system	remain district employees	remain district employees	remain district employees
Collective Bargaining	school bargains as a single unit	depends on charter	school may bargain with district or as a single unit	collective bargaining does not occur	school bargains as a single unit	collective bargaining does not occur	as district employees, but could waive certain provisions	as district employees

— = not addressed in legislation

Morrison Institute for Public Policy
Arizona State University
October 1993

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APPENDIX B:

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Minnesota's Outcome-based School Legislation (1991)

rights-and-duties-of provisions for Minnesota pupils residing-in districts-located-in-all-South-Dakota-counties-that-border Minnesota in this section. After July 1, 1993, this section is effective with respect to any other bordering state upon enactment of provisions by the bordering state that are essentially similar to the rights-and-duties-of-pupils-residing in-and-districts-located-in-all-counties-that-border provisions for Minnesota pupils in this section.

Charter Schools 1993 Update

Sec. 2. Minnesota Statutes 1992, section 120.064, subdivision 1, is amended to read:

Subdivision 1. [PURPOSES.] (a) The purpose of this section is to:

(1) improve pupil learning;

(2) increase learning opportunities for pupils;

(3) encourage the use of different and innovative teaching methods;

(4) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;

(5) establish new forms of accountability for schools; or

(6) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(b) This section does not provide a means to keep open a school that otherwise would be closed. Applicants in these circumstances bear the burden of proving that conversion to an outcome-based school fulfills a purpose specified in this subdivision, independent of the school's closing.

Sec. 3. Minnesota Statutes 1992, section 120.064, subdivision 3, is amended to read:

Subd. 3. [SPONSOR.] ~~(a)~~ A school board may sponsor an one or more outcome-based school schools.

(b) A school board may authorize a maximum of two five outcome-based schools. No more than a total of eight 20 outcome-based schools may be authorized. The state board of education shall advise potential sponsors when the maximum number of outcome-based schools has been authorized.

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Sec. 4. Minnesota Statutes 1992, section 120.064, subdivision 4, is amended to read:

Subd. 4. [FORMATION OF SCHOOL.] (a) A sponsor may authorize one or more licensed teachers under section 125.05, subdivision 1, to ~~form and~~ operate an outcome-based school subject to approval by the state board of education. If a school board elects not to sponsor an outcome-based school, the applicant may appeal the school board's decision to the state board of education if two members of the school board voted to sponsor the school. If the state board authorizes the school, the state board shall sponsor the school according to this section. The ~~teachers~~ school shall ~~organize~~ be organized and ~~operate a school~~ operated as a cooperative under chapter 308A or nonprofit corporation under chapter 317A.

(b) Before ~~a teacher~~ the operators may ~~begin to~~ form and operate a school, the sponsor must file an affidavit with the state board of education stating its intent to authorize an outcome-based school. The affidavit must state the terms and conditions under which the sponsor would authorize an outcome-based school. The state board must approve or disapprove the sponsor's proposed authorization within 30 days of receipt of the affidavit. Failure to obtain state board approval precludes a sponsor from authorizing the outcome-based school that was the subject of the affidavit.

(c) The ~~teachers~~ operators authorized to organize and operate a school shall hold an election for members of the school's board of directors in a timely manner after the school is operating. ~~All~~ Any staff members who are employed at the school, including teachers providing instruction under a contract with a cooperative, and all parents of children enrolled in the school may participate in the election. Licensed teachers employed at the school, including teachers providing instruction under a contract with a cooperative, must be a majority of the members of the board of directors. A provisional board may operate before the election of the school's board of directors.

~~(d) The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school.~~

Sec. 5. Minnesota Statutes 1992, section 120.064, is amended by adding a subdivision to read:

Subd. 4a. [CONVERSION OF EXISTING SCHOOLS.] A school board may convert one or more of its existing schools to outcome-based schools under this section if 90 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Sec. 6. Minnesota Statutes 1992, section 120.064, subdivision 5, is amended to read:

Subd. 5. [CONTRACT.] The sponsor's authorization for an outcome-based school shall be in the form of a written contract signed by the sponsor and the board of directors of the outcome-based school. The contract for an outcome-based school shall be in writing and contain at least the following:

(1) a description of a program that carries out one or more of the purposes in subdivision 1;

(2) specific outcomes pupils are to achieve under subdivision 10;

(3) admission policies and procedures;

(4) management and administration of the school;

(5) requirements and procedures for program and financial audits;

(6) how the school will comply with subdivisions 8, 13, 15, and 21;

(7) assumption of liability by the outcome-based school;

(8) types and amounts of insurance coverage to be obtained by the outcome-based school; and

(9) the term of the contract which may be up to three years.

Sec. 7. Minnesota Statutes 1992, section 120.064, subdivision 8, is amended to read:

Subd. 8. [REQUIREMENTS.] (a) An outcome-based school shall meet ~~the same~~ all applicable state and local health and safety requirements ~~required of a school district~~.

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(b) The school must be located in Minnesota the sponsoring district, unless another school board agrees to locate an outcome-based school sponsored by another district in its boundaries. ~~Its specific location may not be prescribed or limited by a sponsor or other authority except a zoning authority.~~ If a school board denies a request to locate within its boundaries an outcome-based school sponsored by another district, the sponsoring district may appeal to the state board of education. If the state board authorizes the school, the state board shall sponsor the school.

(c) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize an outcome-based school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) The primary focus of the school must be to provide a comprehensive program of instruction for at least one grade or age group from five through 18 years of age. Instruction may be provided to people younger than five years and older than 18 years of age.

(e) The school may not charge tuition.

(f) The school is subject to and shall comply with chapter 363 and section 126.21.

(g) The school is subject to and shall comply with the pupil fair dismissal act, sections 127.26 to 127.39, and the Minnesota public school fee law, sections 120.71 to 120.76.

(h) The school is subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit must be consistent with the requirements of sections 121.901 to 121.917, except to the extent deviations are necessary because of the program at the school. The department of education, state auditor, or legislative auditor may conduct financial, program, or compliance audits.

(i) The school is a school district for the purposes of tort liability under chapter 466.

Sec. 8. Minnesota Statutes 1992, section 120.064,

subdivision 9, is amended to read:

Subd. 9. [ADMISSION REQUIREMENTS.] The school may limit admission to:

(1) pupils within an age group or grade level;

(2) people who are eligible to participate in the high school graduation incentives program under section 126.22; or

~~(3) pupils who have a specific affinity for the school's teaching methods, the school's learning philosophy, or a subject such as mathematics, science, fine arts, performing arts, or a foreign language, or~~

~~(4)~~ residents of a specific geographic area ~~if~~ where the percentage of the population of non-Caucasian people ~~in the geographic~~ of that area is greater than the percentage of the non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of ~~that~~ the specific area.

The school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils shall be accepted by lot.

The school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

Sec. 9. Minnesota Statutes 1992, section 120.064, subdivision 11, is amended to read:

Subd. 11. [EMPLOYMENT AND OTHER OPERATING MATTERS.] The ~~school's board of directors~~ school shall employ and or contract with necessary teachers, as defined by section 125.03, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The ~~board~~ school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The ~~board~~ school may discharge teachers and nonlicensed employees.

The board of directors also shall decide matters related to

the operation of the school, including budgeting, curriculum and operating procedures.

Sec. 10. Minnesota Statutes 1992, section 120.064, subdivision 16, is amended to read:

Subd. 16. [LEASED SPACE.] The school may lease space from a board eligible to be a sponsor or other public or private nonprofit nonsectarian organization. If a school is unable to lease appropriate space from an eligible board or other public or private nonprofit nonsectarian organization, the school may lease space from another nonsectarian organization if the department of education, in consultation with the department of administration, approves the lease.

Sec. 11. Minnesota Statutes 1992, section 120.064, subdivision 18, is amended to read:

Subd. 18. [DISSEMINATE INFORMATION.] The sponsor, the operators, and the department of education must disseminate information to the public~~,-directly-and-through-sponsors,~~ on how to form and operate an outcome-based school and how to utilize the offerings of an outcome-based school. Particular groups to be targeted include low-income families and communities, and students of color.

Sec. 12. Minnesota Statutes 1992, section 120.064, subdivision 21, is amended to read:

Subd. 21. [CAUSES FOR NONRENEWAL OR TERMINATION.] (a) The duration of the contract with a sponsor shall be for the term contained in the contract according to subdivision 5. The sponsor~~,-subject-to-state-board-of-education-approval,~~ may or may not renew a contract at the end of the term for any ground listed in paragraph (b). A sponsor ~~or-the-state-board~~ may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 days before not renewing or terminating a contract, the sponsor~~,-or-the-state-board-if-the-state-board-is-acting-to-terminate-a-contract,~~ shall notify the board of directors of the school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and that

the school's board of directors may request in writing an informal hearing before the sponsor ~~or the state board~~ within 14 days of receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for a hearing within the 14-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor ~~or the state board~~ shall give reasonable notice to the school's board of directors of the hearing date. The sponsor ~~or the state board~~ shall conduct an informal hearing before taking final action. The sponsor shall take final action to renew or not renew a contract by the last day of classes in the school year. If the sponsor is a local school board, the school's board of directors may appeal the sponsor's decision to the state board of education.

(b) A contract may be terminated or not renewed upon any of the following grounds:

(1) failure to meet the requirements for pupil performance contained in the contract;

(2) failure to meet generally accepted standards of fiscal management;

(3) for violations of law; or

(4) other good cause shown.

If a contract is terminated or not renewed, the school shall be dissolved according to the applicable provisions of chapter 308A or 317A.

Sec. 13. Minnesota Statutes 1992, section 120.101, subdivision 5, is amended to read:

Subd. 5. [AGES AND TERMS.] For the 1988-1989 school year and the school years thereafter, every child between seven and 16 years of age shall receive instruction for at least ~~170~~ the number of days each year required under subdivision 5b. For the 2000-2001 school year and later school years, every child between seven and 18 years of age shall receive instruction for at least ~~170~~ the number of days each year required under subdivision 5b. Every child under the age of seven who is enrolled in a half-day kindergarten, or a full-day kindergarten

program on alternate days, or other kindergarten programs shall receive instruction at least equivalent to ~~170 half days~~ half of each day for the number of days each year set out in subdivision 5b. Except as provided in subdivision 5a, a parent may withdraw a child under the age of seven from enrollment at any time.

Sec. 14. Minnesota Statutes 1992, section 120.101, subdivision 5b, is amended to read:

Subd. 5b. [INSTRUCTIONAL DAYS.] Every child required to receive instruction according to subdivision 5 shall receive instruction for at least ~~the number of~~ 170 days through the 1994-1995 school year, and for later years, at least the number of days per school year required in the following schedule:

(1) 1995-1996, 172;

(2) 1996-1997, 174;

(3) 1997-1998, 176;

(4) 1998-1999, 178;

(5) 1999-2000, 180;

(6) 2000-2001, 182;

(7) 2001-2002, 184;

(8) 2002-2003, 186;

(9) 2003-2004, 188; and

(10) 2004-2005, and later school years, 190.

Sec. 15. Minnesota Statutes 1992, section 120.102, subdivision 1, is amended to read:

Subdivision 1. [REPORTS TO SUPERINTENDENT.] The person in charge of providing instruction to a child shall submit the following information to the superintendent of the district in which the child resides:

(1) by October 1 of each school year, the name, age, and address of each child receiving instruction;

(2) the name of each instructor and evidence of compliance with one of the requirements specified in section 120.101, subdivision 7;

(3) an annual instructional calendar showing that instruction will occur on at least ~~170~~ the number of days required under section 120.101, subdivision 5b; and

minimum number of days, state aid shall be reduced by the ratio that the difference between the required number of days and the number of days school is held bears to the required number of days, multiplied by 60 percent of the basic revenue, as defined in section 124A.22, subdivision 2, of the district for that year. However, districts maintaining school for fewer than the required minimum number of days do not lose state aid (1) if the circumstances causing loss of school days below the required minimum number of days are beyond the control of the board, (2) if proper evidence is submitted, and (3) if a good faith attempt is made to make up time lost due to these circumstances. The loss of school days resulting from a lawful employee strike shall not be considered a circumstance beyond the control of the board. Days devoted to meetings authorized or called by the commissioner may not be included as part of the required minimum number of days of school. For grades 1 to 12, days devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days must not exceed five days through the 1994-1995 school year and for subsequent school years the difference between the number of days required in subdivision 1b and the number of instructional days required in subdivision 5b. For kindergarten, days devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days must not exceed twice the number of days for grades 1 to 12.

Charter Schools Funding

Sec. 31. Minnesota Statutes 1992, section 124.248, subdivision 4, is amended to read:

Subd. 4. [OTHER AID, GRANTS, REVENUE.] (a) An outcome-based school is eligible to receive other aids, grants, and revenue according to chapters 120 to 129, as though it were a school district. However, it may not receive aid, a grant, or revenue if a levy is required to obtain the money, except as otherwise provided in this section. Federal aid received by the state must be paid to the school, if it qualifies for the aid as though it were a school district.

(b) Any revenue received from any source, other than revenue that is specifically allowed for operational, maintenance, capital facilities revenue under paragraph (c), and capital expenditure equipment costs under this section, may be used only for the planning and operational start-up costs of an outcome-based school. Any unexpended revenue from any source under this paragraph must be returned to that revenue source or conveyed to the sponsoring school district, at the discretion of the revenue source.

(c) An outcome-based school may receive money from any source for capital facilities needs. Any unexpended capital facilities revenue must be reserved and shall be expended only for future capital facilities purposes.

Sec. 32. Minnesota Statutes 1992, section 124.48, subdivision 3, is amended to read:

Subd. 3. [INDIAN SCHOLARSHIP COMMITTEE.] The Minnesota Indian scholarship committee is established. Members shall be appointed by the state board with the assistance of the Indian affairs council as provided in section 3.922, subdivision 6. Members shall be reimbursed for expenses as provided in section 15.059, subdivision 6. The state board shall determine the membership terms and duration of the committee, which expires no later than ~~the date provided in section 15.059, subdivision 5~~ June 30, 1997. The committee shall provide advice to the state board in awarding scholarships to eligible American Indian students and in administering the state board's duties regarding awarding of American Indian post-secondary preparation grants to school districts.

Sec. 33. Minnesota Statutes 1992, section 125.1885, subdivision 3, is amended to read:

Subd. 3. [PROGRAM APPROVAL.] ~~(a) The state board of education shall approve alternative preparation programs based on criteria adopted by the board, after receiving recommendations from an advisory task force appointed by the board.~~

~~(b)~~ An alternative preparation program at a school

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APPENDIX C:

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California's Charter School Legislation
(1992)

CALIFORNIA
Senate Bill No. 1448

CHAPTER 781

An act to add Part 26.8 (commencing with Section 47600) to the Education Code, relating to charter schools.

[Approved by Governor September 20, 1992. Filed with Secretary of State September 21, 1992.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, Hart. Charter schools.

Under existing law, the public elementary and secondary schools are operated under the governance of school districts and county offices of education.

This bill would establish a procedure for the establishment of not more than 100 "charter schools," which would receive certain public funding but would not be subject to the laws generally governing school districts. The bill would prohibit the conversion of a private school to a charter school under this authority.

The bill would authorize a school district governing board or, as specified, a county board of education, in response to a petition signed by a specified percentage of credentialed teachers, to grant a revocable charter authorizing operation of a charter school for up to 5 years, subject to renewal for additional 5-year periods. The bill would allow a school district to convert all of its schools to charter schools only if certain conditions are met and the petition receives joint approval by the State Board of Education and the Superintendent of Public Instruction.

The bill would require a charter school to be nonsectarian, and to comply with the conditions of its charter petition, including the attainment of identified educational objectives, health and safety standards, and racial and ethnic balance. The bill would prohibit school districts having one or more charter schools from requiring any pupil to attend, or any employee to be employed at, a charter school. Charter schools would be prohibited from discriminating on the basis of ethnicity, national origin, gender, or disability, and from determining admission on the basis of the residence of the pupil or his or her parent or guardian.

The bill would authorize a charter school to participate in the State Teacher's Retirement System, as specified.

The bill would specify, for identified purposes of the California Constitution, that a charter school is under the authority of the public schools, and that it constitutes a "school district" for purposes of the state school funding guarantee for school districts and community college districts.

The bill would require the State Department of Education to review the charter school approach and, not later than January 1,

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1999, to report to the Legislature with recommendations regarding that approach.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would impose a state-mandated local program by requiring school district governing boards to review and respond to petitions for the granting of charters within a specified time period.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. Part 26.8 (commencing with Section 47600) is added to the Education Code, to read:

PART 26.8. CHARTER SCHOOLS

CHAPTER 1. GENERAL PROVISIONS

47600. This part shall be known, and may be cited, as the "Charter Schools Act of 1992."

47601. It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

(a) Improve pupil learning.

(b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.

(c) Encourage the use of different and innovative teaching methods.

(d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

(e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a

method to change from rule-based to performance-based accountability systems.

47602. (a) The total number of charter schools operating in this state in any school year shall not exceed 100, with not more than 10 charter schools in any single school district. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter notice it receives pursuant to subdivision (g) of Section 47605, based on the chronological order in which the notice is received.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school.

47603. This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

CHAPTER 2. ESTABLISHMENT OF CHARTER SCHOOLS

47605. (a) A petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. After the petition has been signed by not less than 10 percent of the teachers currently employed by the school district, or by not less than 50 percent of the teachers currently employed at one school of the district, it may be submitted to the governing board of the school district for review.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the board shall consider the level of employee and parental support for the petition. Following review of the petition and the public hearing, the governing board shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. A school district governing board may grant a charter for the operation of a school under this part if it determines that the petition contains the number of signatures required by subdivision (a), a statement of each of the conditions described in subdivision (d), and descriptions of all of the following:

(1) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an 'educated person' in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(2) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(3) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(5) The qualifications to be met by individuals to be employed by the school.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(7) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(8) Admission requirements, if applicable.

(9) The manner in which an annual audit of the financial and programmatic operations of the school is to be conducted.

(10) The procedures by which pupils can be suspended or expelled.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(13) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(c) Charter schools shall meet the statewide performance standards and conduct the pupil assessments required pursuant to Section 60602.5.

(d) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

(g) The governing board may require that the petitioner or

petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects upon the school and upon the school district.

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the State Board of Education.

(j) (1) If the governing board of the school district denies a charter, the county superintendent of schools, at the request of the petitioner or petitioners, shall select and convene a review panel to review the action of the governing board. The review panel shall consist of three governing board members from other school districts in the county and three teachers from other school districts in the county unless only one school district is located in the county, in which case the panel members shall be selected from school districts in adjoining counties.

(2) If the review panel determines that the governing board failed to appropriately consider the charter request, or acted in an arbitrary manner in denying the request, the review panel shall request the governing board to reconsider the charter request. In the case of a tie vote of the panel, the county superintendent of schools shall vote to break the tie.

(3) If, upon reconsideration, the governing board denies a charter, the county board of education, at the request of the petitioner or petitioners, shall hold a public hearing in the manner described in subdivision (b) and, accordingly, may grant a charter. A charter school for which a charter is granted by a county board of education pursuant to this paragraph shall qualify fully as a charter school for all funding and other purposes of this part.

47606. (a) A school district may convert all of its schools to charter schools under this part only if it meets all of the following conditions:

(1) Fifty percent of the teachers within the school district sign the charter petition.

(2) The charter petition contains all of the requirements set forth in subdivisions (b), (c), (d), (e), and (f) of Section 47605 and a provision that specifies alternative public school attendance arrangements for pupils residing within the school district who

choose not to attend charter schools.

(b) Notwithstanding subdivision (b) of Section 47605, the districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction and the State Board of Education.

47607. (a) A charter may be granted pursuant to Sections 47605 and 47606 for a period not to exceed five years. A charter granted by a school district governing board or county board of education may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period not to exceed five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter.

(b) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter petition.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter petition.

(3) Failed to meet generally accepted accounting standards of fiscal management.

(4) Violated any provision of law.

CHAPTER 3. CHARTER SCHOOL OPERATION AND FUNDING

47610. A charter school shall comply with all of the provisions set forth in its charter petition, but is otherwise exempt from the laws governing school districts except as specified in Section 47611.

47611. If a charter school chooses to participate in the State Teacher's Retirement System, all employees of the charter school who qualify for membership in the system shall be covered under the system, and all provisions of Part 13 (commencing with Section 22000) shall apply in the same manner as if the charter school were a public school in the school district that granted the charter.

47612. (a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted.

(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.

(3) Funds for the programs described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

(b) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of subdivisions (a) and (b).

(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

CHAPTER 4. NOTICE

47615. The State Board of Education shall distribute information announcing the availability of the charter school process described in this part to each school district, county office of education, and public postsecondary educational institution and, through press releases, to each major newspaper in the state.

47616. The State Department of Education shall review the educational effectiveness of the charter school approach authorized under this part and, not later than January 1, 1999, shall report to the Legislature accordingly with recommendations to modify, expand, or terminate that approach.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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APPENDIX D:

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Massachusetts' Charter School Legislation
(1993)

section, "immediate family" shall have the meaning assigned by subsection (e) of section one of chapter two hundred and sixty-eight A.

SECTION 55. Said chapter 71 is hereby further amended by adding the following section:-

Section 89. A charter school shall be a public school, operated under a charter granted by the secretary of education, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a charter school, upon receiving a charter from the secretary of education, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

The purposes for establishing charter schools are: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs and; (6) to hold teachers and school administrators accountable for students' educational outcomes.

Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to, a business or corporate entity, two or more certified teachers or ten or more parents. Said application may be filed in conjunction with a college, university, museum or other similar entity. Private and parochial schools shall not be eligible for charter school status.

The secretary of education shall establish the information needed in an application for the approval of a charter school; provided, however, that said application shall include the method for admission to a charter school. There shall be no application fee for admission to a charter school.

Applications to establish a charter school shall be submitted each year by February fifteenth. The secretary of education shall review the applications no later than March fifteenth.

The secretary of education shall make the final determination on granting charter school status and may condition charters on the charter school's taking certain actions or maintaining certain conditions. No more than twenty-

five charter schools shall be allowed to operate in the commonwealth at any time. Of these, no more than five shall be located in the city of Boston; no more than five shall be located in the city of Springfield; and no more than two shall be located in any other city or town. Under no circumstances shall the total number of students attending charter schools in the commonwealth be allowed to be greater than three-quarters of one percent of the total number of students attending public schools in the commonwealth.

A charter school established under a charter granted by the secretary shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:

(a) to adopt a name and corporate seal; provided, however, that any name selected must include the words "charter school";

(b) to sue and be sued, but only to the same extent and upon the same conditions that a town can be sued;

(c) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility;

(d) to receive and disburse funds for school purposes;

(e) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the board intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the secretary, either as part of the original charter or by way of an amendment thereto; provided, further, that the secretary shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;

(f) to incur temporary debt in anticipation of receipt of funds;

(g) to solicit and accept any grants or gifts for school purposes;

(h) to have such other powers available to a business corporation formed under chapter one hundred and fifty-six B that are not inconsistent with this chapter.

Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language, and academic achievement. Charter schools may limit enrollment to

specific grade levels or areas of focus of the school, such as mathematics, science or the arts.

A charter school may establish reasonable academic standards as a condition for eligibility for applicants. Preference for enrollment in a charter school shall be given to students who reside in the city or town in which the charter school is located. If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are siblings of students already attending said charter school is greater than the number of spaces available, then an admissions lottery shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more eligible applicants than spaces left available, then a lottery shall be held to determine which of said applicants shall be admitted. There shall be no tuition charge for students attending charter schools.

A student may withdraw from a charter school at any time and enroll in a public school where said student resides. A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the secretary of education, with the advice of the principal and teachers.

A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease or rent its space.

A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that the provisions of sections forty-one and forty-two shall not apply to employees of charter schools. Charter schools shall comply with the provisions of chapters seventy-one A and seventy-one B; provided, however, that the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides.

Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board of education for students in other public schools.

The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget.

Employees of charter schools shall be considered public employees for purposes of tort liability under chapter two hundred and fifty-eight and for collective bargaining purposes under chapter one hundred and fifty E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter two hundred and fifty-eight and for collective bargaining purposes under said chapter one hundred and fifty E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter thirty-two and service in a charter school shall be "creditable service" within the meaning thereof.

Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave in order to teach in charter schools. A teacher may request a leave of absence for up to two years.

At the end of the two year period, the teacher may make a request to the superintendent that such leave be extended for an additional two years, and approval for said request shall not be unreasonably withheld or he may return to his former teaching position. At the end of the fourth year, the teacher may either return to his former teaching position or, if he chooses to continue teaching at the charter school, resign from his school district position.

Notwithstanding section fifty-nine C, the internal form of governance of a charter school shall be determined by the school's charter.

A charter school shall comply with all applicable state and federal health and safety laws and regulations.

The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on the same terms and conditions as transportation is provided to children attending local district schools. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section twelve B of chapter seventy-six.

Each charter school shall submit to the secretary, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school an annual report. The annual report shall be issued no later than August first of each year for the preceding

school year. The annual report shall be in such form as may be prescribed by the secretary of education and shall include at least the following components:

(a) discussion of progress made toward the achievement of the goals set forth in the charter;

(b) a financial statement setting forth by appropriate categories, the revenue and expenditures for the year just ended.

Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the secretary of education who shall investigate such complaint and make a formal response.

A charter granted by the secretary of education shall be for five years. The secretary of education may revoke a school's charter if the school has not fulfilled any conditions imposed by the secretary of education in connection with the grant of the charter or the school has violated any provision of its charter. The secretary may place the charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

The secretary shall develop procedures and guidelines for revocation and renewal of a school's charter.

Notwithstanding the foregoing, no school building assistance funds, so-called, shall be awarded to a charter school for the purpose of constructing, reconstructing or improving said school.

Charter schools shall be funded as follows: If a student attending a charter school resides in a community with a positive foundation gap, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the average cost per student in said district. If a student attending a charter school resides in a community that does not have a positive foundation gap pursuant to chapter seventy, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the lesser of: (1) the average cost per student in said district; and (2) the average cost per student in the district in which the charter school is located.

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APPENDIX E:

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Colorado's Charter Schools Act
(1993)

An Act

SENATE BILL 93-183

BY SENATORS Owens, Trujillo, Bird, Blickensderfer, Johnson, Roberts, Ruddick, Schaffer, Schroeder, Meiklejohn, Mutzebaugh, Norton, and Tebedo;
also REPRESENTATIVES Kerns, Agler, Anderson, Reeves, Adkins, Berry, Coffman, Dyer, Foster, Hagedorn, Jerke, Kaufman, Lawrence, May, Owen, Ratterree, and Sullivan.

CONCERNING CHARTER SCHOOLS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 22, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 30.5
Charter Schools

22-30.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CHARTER SCHOOLS ACT".

22-30.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS THE OBLIGATION OF ALL COLORADANS TO PROVIDE ALL CHILDREN WITH SCHOOLS THAT REFLECT HIGH EXPECTATIONS AND CREATE CONDITIONS IN ALL SCHOOLS WHERE THESE EXPECTATIONS CAN BE MET;

(b) EDUCATION REFORM IS IN THE BEST INTERESTS OF THE STATE IN ORDER TO STRENGTHEN THE PERFORMANCE OF ELEMENTARY AND SECONDARY PUBLIC SCHOOL PUPILS, THAT THE BEST EDUCATION DECISIONS ARE MADE BY THOSE WHO KNOW THE STUDENTS BEST AND WHO ARE RESPONSIBLE FOR IMPLEMENTING THE DECISIONS, AND, THEREFORE, THAT EDUCATORS AND PARENTS HAVE A RIGHT AND A RESPONSIBILITY TO PARTICIPATE IN THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and

EDUCATION INSTITUTIONS WHICH SERVE THEM;

(c) DIFFERENT PUPILS LEARN DIFFERENTLY AND PUBLIC SCHOOL PROGRAMS SHOULD BE DESIGNED TO FIT THE NEEDS OF INDIVIDUAL PUPILS AND THAT THERE ARE EDUCATORS, CITIZENS, AND PARENTS IN COLORADO WHO ARE WILLING AND ABLE TO OFFER INNOVATIVE PROGRAMS, EDUCATIONAL TECHNIQUES, AND ENVIRONMENTS BUT WHO LACK A CHANNEL THROUGH WHICH THEY CAN DIRECT THEIR INNOVATIVE EFFORTS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THIS ARTICLE IS ENACTED FOR THE FOLLOWING PURPOSES:

(a) TO IMPROVE PUPIL LEARNING BY CREATING SCHOOLS WITH HIGH, RIGOROUS STANDARDS FOR PUPIL PERFORMANCE;

(b) TO INCREASE LEARNING OPPORTUNITIES FOR ALL PUPILS, WITH SPECIAL EMPHASIS ON EXPANDED LEARNING EXPERIENCES FOR PUPILS WHO ARE IDENTIFIED AS ACADEMICALLY LOW-ACHIEVING;

(c) TO ENCOURAGE DIVERSE APPROACHES TO LEARNING AND EDUCATION AND THE USE OF DIFFERENT AND INNOVATIVE TEACHING METHODS;

(d) TO ALLOW THE DEVELOPMENT OF DIFFERENT AND INNOVATIVE FORMS OF MEASURING PUPIL LEARNING AND ACHIEVEMENT;

(e) TO CREATE NEW PROFESSIONAL OPPORTUNITIES FOR TEACHERS, INCLUDING THE OPPORTUNITY TO BE RESPONSIBLE FOR THE LEARNING PROGRAM AT THE SCHOOL SITE;

(f) TO PROVIDE PARENTS AND PUPILS WITH EXPANDED CHOICES IN THE TYPES OF EDUCATION OPPORTUNITIES THAT ARE AVAILABLE WITHIN THE PUBLIC SCHOOL SYSTEM;

(g) TO ENCOURAGE PARENTAL AND COMMUNITY INVOLVEMENT WITH PUBLIC SCHOOLS;

(h) TO HOLD CHARTER SCHOOLS ACCOUNTABLE FOR MEETING STATE BOARD AND SCHOOL DISTRICT CONTENT STANDARDS AND TO PROVIDE SUCH SCHOOLS WITH A METHOD TO CHANGE ACCOUNTABILITY SYSTEMS.

(3) IN AUTHORIZING CHARTER SCHOOLS, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CREATE A LEGITIMATE AVENUE FOR PARENTS, TEACHERS, AND COMMUNITY MEMBERS TO TAKE RESPONSIBLE RISKS AND CREATE NEW, INNOVATIVE, AND MORE FLEXIBLE WAYS OF EDUCATING ALL CHILDREN WITHIN THE PUBLIC SCHOOL SYSTEM. THE GENERAL ASSEMBLY SEEKS TO CREATE AN ATMOSPHERE IN COLORADO'S PUBLIC SCHOOL SYSTEMS WHERE RESEARCH AND DEVELOPMENT IN DEVELOPING DIFFERENT LEARNING OPPORTUNITIES IS ACTIVELY PURSUED. AS SUCH, THE PROVISIONS OF THIS ARTICLE SHOULD BE INTERPRETED LIBERALLY TO SUPPORT THE FINDINGS AND GOALS OF THIS SECTION AND TO ADVANCE A RENEWED COMMITMENT BY THE STATE OF COLORADO TO THE MISSION, GOALS, AND

DIVERSITY OF PUBLIC EDUCATION.

22-30.5-103. Definitions. (1) FOR PURPOSES OF THIS ARTICLE:

(a) "AT-RISK PUPIL" MEANS A PUPIL WHO, BECAUSE OF PHYSICAL, EMOTIONAL, SOCIOECONOMIC, OR CULTURAL FACTORS, IS LESS LIKELY TO SUCCEED IN A CONVENTIONAL EDUCATIONAL ENVIRONMENT.

(b) "LOCAL BOARD OF EDUCATION" MEANS THE SCHOOL DISTRICT BOARD OF EDUCATION.

(c) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION.

22-30.5-104. Charter school - requirements - authority. (1) A CHARTER SCHOOL SHALL BE A PUBLIC, NONSECTARIAN, NONRELIGIOUS, NON-HOME-BASED SCHOOL WHICH OPERATES WITHIN A PUBLIC SCHOOL DISTRICT.

(2) A CHARTER SCHOOL SHALL BE A PUBLIC SCHOOL WHICH IS PART OF THE SCHOOL DISTRICT IN WHICH IT IS LOCATED AND SHALL BE ACCOUNTABLE TO THE LOCAL BOARD OF EDUCATION FOR PURPOSES OF ENSURING COMPLIANCE WITH APPLICABLE LAWS AND CHARTER PROVISIONS AND THE REQUIREMENT OF SECTION 15 OF ARTICLE IX OF THE STATE CONSTITUTION.

(3) A CHARTER SCHOOL SHALL BE SUBJECT TO ALL FEDERAL AND STATE LAWS AND CONSTITUTIONAL PROVISIONS PROHIBITING DISCRIMINATION ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, GENDER, NATIONAL ORIGIN, RELIGION, ANCESTRY, OR NEED FOR SPECIAL EDUCATION SERVICES. A CHARTER SCHOOL SHALL BE SUBJECT TO ANY COURT-ORDERED DESEGREGATION PLAN IN EFFECT FOR THE SCHOOL DISTRICT. ENROLLMENT MUST BE OPEN TO ANY CHILD WHO RESIDES WITHIN THE SCHOOL DISTRICT.

(4) A CHARTER SCHOOL SHALL BE ADMINISTERED AND GOVERNED BY A GOVERNING BODY IN A MANNER AGREED TO BY THE CHARTER SCHOOL APPLICANT AND THE LOCAL BOARD OF EDUCATION.

(5) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 22-32-115 AND 22-53-104, A CHARTER SCHOOL SHALL NOT CHARGE TUITION.

(6) PURSUANT TO CONTRACT, A CHARTER SCHOOL MAY OPERATE FREE FROM SPECIFIED SCHOOL DISTRICT POLICIES AND STATE REGULATIONS. UPON REQUEST OF THE CHARTER APPLICANT, THE STATE BOARD AND THE LOCAL BOARD OF EDUCATION SHALL PROVIDE SUMMARIES OF SUCH REGULATIONS AND POLICIES TO USE IN PREPARING A CHARTER SCHOOL APPLICATION. THE DEPARTMENT OF EDUCATION SHALL PREPARE THE SUMMARY OF STATE REGULATIONS WITHIN EXISTING APPROPRIATIONS.

(7) (a) A CHARTER SCHOOL SHALL BE RESPONSIBLE FOR ITS OWN OPERATION INCLUDING, BUT NOT LIMITED TO, PREPARATION OF A BUDGET,

CONTRACTING FOR SERVICES, AND PERSONNEL MATTERS.

(b) A CHARTER SCHOOL MAY NEGOTIATE AND CONTRACT WITH A SCHOOL DISTRICT, THE GOVERNING BODY OF A STATE COLLEGE OR UNIVERSITY, OR ANY THIRD PARTY FOR THE USE OF A SCHOOL BUILDING AND GROUNDS, THE OPERATION AND MAINTENANCE THEREOF, AND THE PROVISION OF ANY SERVICE, ACTIVITY, OR UNDERTAKING WHICH THE CHARTER SCHOOL IS REQUIRED TO PERFORM IN ORDER TO CARRY OUT THE EDUCATIONAL PROGRAM DESCRIBED IN ITS CHARTER. ANY SERVICES FOR WHICH A CHARTER SCHOOL CONTRACTS WITH A SCHOOL DISTRICT SHALL BE PROVIDED BY THE DISTRICT AT COST.

(c) IN NO EVENT SHALL A CHARTER SCHOOL BE REQUIRED TO PAY RENT FOR SPACE WHICH IS DEEMED AVAILABLE, AS NEGOTIATED BY CONTRACT, IN SCHOOL DISTRICT FACILITIES. ALL OTHER COSTS FOR THE OPERATION AND MAINTENANCE OF THE FACILITIES USED BY THE CHARTER SCHOOL SHALL BE SUBJECT TO NEGOTIATION BETWEEN THE CHARTER SCHOOL AND THE SCHOOL DISTRICT.

22-30.5-105. Charter schools - contract contents - regulations. (1) AN APPROVED CHARTER APPLICATION SHALL CONSTITUTE AN AGREEMENT, AND THE TERMS THEREOF SHALL BE THE TERMS OF A CONTRACT BETWEEN THE CHARTER SCHOOL AND THE LOCAL BOARD OF EDUCATION.

(2) THE CONTRACT BETWEEN THE CHARTER SCHOOL AND THE LOCAL BOARD OF EDUCATION SHALL REFLECT ALL AGREEMENTS REGARDING THE RELEASE OF THE CHARTER SCHOOL FROM SCHOOL DISTRICT POLICIES.

(3) THE CONTRACT BETWEEN THE CHARTER SCHOOL AND THE LOCAL BOARD OF EDUCATION SHALL REFLECT ALL REQUESTS FOR RELEASE OF THE CHARTER SCHOOL FROM STATE REGULATIONS. THE LOCAL BOARD OF EDUCATION AND THE CHARTER SCHOOL SHALL JOINTLY REQUEST SUCH RELEASE FROM THE STATE BOARD.

(4) A MATERIAL REVISION OF THE TERMS OF THE CONTRACT MAY BE MADE ONLY WITH THE APPROVAL OF THE LOCAL BOARD OF EDUCATION AND THE GOVERNING BODY OF THE CHARTER SCHOOL.

22-30.5-106. Charter application - contents. (1) THE CHARTER SCHOOL APPLICATION SHALL BE A PROPOSED AGREEMENT AND SHALL INCLUDE:

(a) THE MISSION STATEMENT OF THE CHARTER SCHOOL, WHICH MUST BE CONSISTENT WITH THE PRINCIPLES OF THE GENERAL ASSEMBLY'S DECLARED PURPOSES AS SET FORTH IN SECTION 22-30.5-102 (2) AND (3);

(b) THE GOALS, OBJECTIVES, AND PUPIL PERFORMANCE STANDARDS TO BE ACHIEVED BY THE CHARTER SCHOOL;

(c) EVIDENCE THAT AN ADEQUATE NUMBER OF PARENTS, TEACHERS, PUPILS, OR ANY COMBINATION THEREOF SUPPORT THE FORMATION OF A

CHARTER SCHOOL;

(d) A STATEMENT OF THE NEED FOR A CHARTER SCHOOL IN A SCHOOL DISTRICT OR IN A GEOGRAPHIC AREA WITHIN A SCHOOL DISTRICT;

(e) A DESCRIPTION OF THE CHARTER SCHOOL'S EDUCATIONAL PROGRAM, PUPIL PERFORMANCE STANDARDS, AND CURRICULUM, WHICH MUST MEET OR EXCEED ANY CONTENT STANDARDS ADOPTED BY THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED AND MUST BE DESIGNED TO ENABLE EACH PUPIL TO ACHIEVE SUCH STANDARDS;

(f) A DESCRIPTION OF THE CHARTER SCHOOL'S PLAN FOR EVALUATING PUPIL PERFORMANCE, THE TYPES OF ASSESSMENTS THAT WILL BE USED TO MEASURE PUPIL PROGRESS TOWARDS ACHIEVEMENT OF THE SCHOOL'S PUPIL PERFORMANCE STANDARDS, THE TIMELINE FOR ACHIEVEMENT OF SUCH STANDARDS, AND THE PROCEDURES FOR TAKING CORRECTIVE ACTION IN THE EVENT THAT PUPIL PERFORMANCE AT THE CHARTER SCHOOL FALLS BELOW SUCH STANDARDS;

(g) EVIDENCE THAT THE PLAN FOR THE CHARTER SCHOOL IS ECONOMICALLY SOUND FOR BOTH THE CHARTER SCHOOL AND THE SCHOOL DISTRICT, A PROPOSED BUDGET FOR THE TERM OF THE CHARTER, A DESCRIPTION OF THE MANNER IN WHICH AN ANNUAL AUDIT OF THE FINANCIAL AND ADMINISTRATIVE OPERATIONS OF THE CHARTER SCHOOL, INCLUDING ANY SERVICES PROVIDED BY THE SCHOOL DISTRICT, IS TO BE CONDUCTED, AND A PLAN FOR THE DISPLACEMENT OF PUPILS, TEACHERS, AND OTHER EMPLOYEES WHO WILL NOT ATTEND OR BE EMPLOYED IN THE CHARTER SCHOOL;

(h) A DESCRIPTION OF THE GOVERNANCE AND OPERATION OF THE CHARTER SCHOOL, INCLUDING THE NATURE AND EXTENT OF PARENTAL, PROFESSIONAL EDUCATOR, AND COMMUNITY INVOLVEMENT IN THE GOVERNANCE AND OPERATION OF THE CHARTER SCHOOL;

(i) AN EXPLANATION OF THE RELATIONSHIP THAT WILL EXIST BETWEEN THE PROPOSED CHARTER SCHOOL AND ITS EMPLOYEES, INCLUDING EVIDENCE THAT THE TERMS AND CONDITIONS OF EMPLOYMENT HAVE BEEN ADDRESSED WITH AFFECTED EMPLOYEES AND THEIR RECOGNIZED REPRESENTATIVE, IF ANY;

(j) AN AGREEMENT BETWEEN THE PARTIES REGARDING THEIR RESPECTIVE LEGAL LIABILITY AND APPLICABLE INSURANCE COVERAGE;

(k) A DESCRIPTION OF HOW THE CHARTER SCHOOL PLANS TO MEET THE TRANSPORTATION NEEDS OF ITS PUPILS AND, IF THE CHARTER SCHOOL PLANS TO PROVIDE TRANSPORTATION FOR PUPILS, A PLAN FOR ADDRESSING THE TRANSPORTATION NEEDS OF LOW-INCOME AND ACADEMICALLY LOW-ACHIEVING PUPILS.

(2) NO PERSON, GROUP, OR ORGANIZATION MAY SUBMIT AN APPLICATION TO CONVERT A PRIVATE SCHOOL OR A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM INTO A CHARTER SCHOOL OR TO CREATE A CHARTER

SCHOOL WHICH IS A NON-PUBLIC HOME-BASED EDUCATIONAL PROGRAM AS DEFINED IN SECTION 22-33-104.5.

22-30.5-107. Charter application - process. (1) THE LOCAL BOARD OF EDUCATION SHALL RECEIVE AND REVIEW ALL APPLICATIONS FOR CHARTER SCHOOLS. THE LOCAL BOARD OF EDUCATION MAY ESTABLISH A SCHEDULE FOR RECEIVING APPLICATIONS AND SHALL MAKE A COPY OF ANY SUCH SCHEDULE AVAILABLE TO ALL INTERESTED PARTIES UPON REQUEST. IF SUCH BOARD FINDS THE CHARTER SCHOOL APPLICATION IS INCOMPLETE, THE BOARD SHALL REQUEST THE NECESSARY INFORMATION FROM THE CHARTER APPLICANT. THE CHARTER SCHOOL APPLICATION SHALL BE REVIEWED BY THE DISTRICT ACCOUNTABILITY COMMITTEE PRIOR TO CONSIDERATION BY THE LOCAL BOARD OF EDUCATION.

(2) AFTER GIVING REASONABLE PUBLIC NOTICE, THE LOCAL BOARD OF EDUCATION SHALL HOLD COMMUNITY MEETINGS IN THE AFFECTED AREAS OR THE ENTIRE SCHOOL DISTRICT TO OBTAIN INFORMATION TO ASSIST THE LOCAL BOARD OF EDUCATION IN ITS DECISION TO GRANT A CHARTER SCHOOL APPLICATION. THE LOCAL BOARD OF EDUCATION SHALL RULE ON THE APPLICATION FOR A CHARTER SCHOOL IN A PUBLIC HEARING, UPON REASONABLE PUBLIC NOTICE, WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION.

(3) IF A LOCAL BOARD OF EDUCATION DENIES A CHARTER SCHOOL APPLICATION, THE CHARTER APPLICANT MAY APPEAL THE DENIAL TO THE STATE BOARD PURSUANT TO SECTION 22-30.5-108.

22-30.5-108. Appeal - standard of review - procedures. (1) ACTING PURSUANT TO ITS SUPERVISORY POWER AS PROVIDED IN SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION, THE STATE BOARD, UPON RECEIPT OF A NOTICE OF APPEAL OR UPON ITS OWN MOTION, MAY REVIEW DECISIONS OF ANY LOCAL BOARD OF EDUCATION CONCERNING CHARTER SCHOOLS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(2) A CHARTER APPLICANT OR ANY OTHER PERSON WHO WISHES TO APPEAL A DECISION OF A LOCAL BOARD OF EDUCATION CONCERNING A CHARTER SCHOOL SHALL PROVIDE THE STATE BOARD AND THE LOCAL BOARD OF EDUCATION WITH A NOTICE OF APPEAL WITHIN THIRTY DAYS OF THE LOCAL BOARD'S DECISION.

(3) IF THE NOTICE OF APPEAL, OR THE MOTION TO REVIEW BY THE STATE BOARD, RELATES TO A LOCAL BOARD'S DECISION TO DENY, REFUSE TO RENEW, OR REVOKE A CHARTER, THE APPEAL AND REVIEW PROCESS SHALL BE AS FOLLOWS:

(a) WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF APPEAL OR THE MAKING OF A MOTION TO REVIEW BY THE STATE BOARD AND AFTER REASONABLE PUBLIC NOTICE, THE STATE BOARD, AT A PUBLIC HEARING WHICH MAY BE HELD IN THE DISTRICT WHERE THE PROPOSED CHARTER SCHOOL IS LOCATED, SHALL REVIEW THE DECISION OF THE LOCAL BOARD OF EDUCATION AND MAKE ITS FINDINGS. IF THE STATE BOARD FINDS THAT THE LOCAL BOARD'S DECISION WAS CONTRARY TO THE BEST

INTERESTS OF THE PUPILS, SCHOOL DISTRICT, OR COMMUNITY, THE STATE BOARD SHALL REMAND SUCH DECISION TO THE LOCAL BOARD OF EDUCATION WITH WRITTEN INSTRUCTIONS FOR RECONSIDERATION THEREOF. SAID INSTRUCTIONS SHALL INCLUDE SPECIFIC RECOMMENDATIONS CONCERNING THE MATTERS REQUIRING RECONSIDERATION.

(b) WITHIN THIRTY DAYS FOLLOWING THE REMAND OF A DECISION TO THE LOCAL BOARD OF EDUCATION AND AFTER REASONABLE PUBLIC NOTICE, THE LOCAL BOARD OF EDUCATION, AT A PUBLIC HEARING, SHALL RECONSIDER ITS DECISION AND MAKE A FINAL DECISION.

(c) IF THE LOCAL BOARD OF EDUCATION'S FINAL DECISION IS STILL TO DENY, REFUSE TO RENEW, OR REVOKE A CHARTER, A SECOND NOTICE OF APPEAL MAY BE FILED WITH THE STATE BOARD WITHIN THIRTY DAYS FOLLOWING SUCH FINAL DECISION.

(d) WITHIN THIRTY DAYS FOLLOWING RECEIPT OF THE SECOND NOTICE OF APPEAL OR THE MAKING OF A MOTION FOR A SECOND REVIEW BY THE STATE BOARD AND AFTER REASONABLE PUBLIC NOTICE, THE STATE BOARD, AT A PUBLIC HEARING, SHALL DETERMINE WHETHER THE FINAL DECISION OF THE LOCAL BOARD OF EDUCATION WAS CONTRARY TO THE BEST INTERESTS OF THE PUPILS, SCHOOL DISTRICT, OR COMMUNITY. IF SUCH A FINDING IS MADE, THE STATE BOARD SHALL REMAND SUCH FINAL DECISION TO THE LOCAL BOARD WITH INSTRUCTIONS TO APPROVE THE CHARTER APPLICATION. THE DECISION OF THE STATE BOARD SHALL BE FINAL AND NOT SUBJECT TO APPEAL.

(4) IF THE NOTICE OF APPEAL, OR THE MOTION TO REVIEW BY THE STATE BOARD, RELATES TO A LOCAL BOARD'S DECISION TO GRANT A CHARTER, THE APPEAL AND REVIEW PROCESS SHALL BE AS FOLLOWS:

(a) (I) WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF APPEAL OR THE MAKING OF A MOTION TO REVIEW BY THE STATE BOARD AND AFTER REASONABLE PUBLIC NOTICE, THE STATE BOARD, AT A PUBLIC HEARING WHICH MAY BE HELD IN THE DISTRICT WHERE THE PROPOSED CHARTER SCHOOL IS LOCATED, SHALL REVIEW THE DECISION OF THE LOCAL BOARD OF EDUCATION AND DETERMINE WHETHER SUCH DECISION WAS ARBITRARY AND CAPRICIOUS OR WHETHER THE ESTABLISHMENT OR OPERATION OF THE PROPOSED CHARTER SCHOOL WOULD:

(A) VIOLATE ANY FEDERAL OR STATE LAWS CONCERNING CIVIL RIGHTS;

(B) VIOLATE ANY COURT ORDER;

(C) THREATEN THE HEALTH AND SAFETY OF PUPILS IN THE SCHOOL DISTRICT;

(D) VIOLATE THE PROVISIONS OF SECTION 22-30.5-109 (2), PRESCRIBING THE PERMISSIBLE NUMBER OF CHARTER SCHOOLS; OR

(E) BE INCONSISTENT WITH THE EQUITABLE DISTRIBUTION OF

CHARTER SCHOOLS AMONG SCHOOL DISTRICTS.

(II) IF SUCH A DETERMINATION IS MADE, THE STATE BOARD SHALL REMAND SUCH DECISION TO THE LOCAL BOARD WITH INSTRUCTIONS TO DENY THE CHARTER APPLICATION. THE DECISION OF THE STATE BOARD SHALL BE FINAL AND NOT SUBJECT TO APPEAL.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER THE REQUIREMENT THAT A CHARTER SCHOOL BE A PART OF THE SCHOOL DISTRICT IN WHICH IT IS LOCATED AND ACCOUNTABLE TO THE LOCAL BOARD OF EDUCATION PURSUANT TO SECTION 22-30.5-104 (2).

22-30.5-109. Charter schools - restrictions - establishment - number. (1) SCHOOL DISTRICTS MAY, BUT SHALL NOT BE OBLIGATED TO, ESTABLISH CHARTER SCHOOLS PRIOR TO THE 1994-95 SCHOOL YEAR. A LOCAL BOARD OF EDUCATION MAY REASONABLY LIMIT THE NUMBER OF CHARTER SCHOOLS IN THE SCHOOL DISTRICT.

(2) (a) NO MORE THAN FIFTY CHARTERS SHALL BE GRANTED PRIOR TO JULY 1, 1997, AND AT LEAST THIRTEEN OF SAID FIFTY CHARTERS SHALL BE RESERVED FOR CHARTER SCHOOL APPLICATIONS WHICH ARE DESIGNED TO INCREASE THE EDUCATIONAL OPPORTUNITIES OF AT-RISK PUPILS, AS DEFINED IN SECTION 22-30.5-103.

(b) LOCAL BOARDS OF EDUCATION WHICH GRANT CHARTER SCHOOL APPLICATIONS SHALL REPORT SUCH ACTION TO THE STATE BOARD AND SHALL SPECIFY WHETHER OR NOT SUCH SCHOOL IS DESIGNED TO INCREASE THE EDUCATIONAL OPPORTUNITIES OF AT-RISK PUPILS. THE STATE BOARD SHALL PROMPTLY NOTIFY THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT WHEN THE LIMITS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2) HAVE BEEN REACHED.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT PRIORITY OF CONSIDERATION BE GIVEN TO CHARTER SCHOOL APPLICATIONS DESIGNED TO INCREASE THE EDUCATIONAL OPPORTUNITIES OF AT-RISK PUPILS, AS DEFINED IN SECTION 22-30.5-103.

(4) IF OTHERWISE QUALIFIED, NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT ANY INSTITUTION CERTIFIED AS AN EDUCATIONAL CLINIC PURSUANT TO ARTICLE 27 OF THIS TITLE, ON OR BEFORE APRIL 1, 1993, FROM APPLYING TO BECOME A CHARTER SCHOOL PURSUANT TO THIS ARTICLE.

(5) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT A SCHOOL IN A SCHOOL DISTRICT WHICH IS COMPRISED OF ONLY ONE SCHOOL FROM APPLYING TO BECOME A CHARTER SCHOOL PURSUANT TO THIS ARTICLE.

22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation. (1) A CHARTER MAY BE APPROVED OR RENEWED FOR A PERIOD NOT TO EXCEED FIVE ACADEMIC YEARS.

(2) A CHARTER SCHOOL RENEWAL APPLICATION SUBMITTED TO THE LOCAL BOARD OF EDUCATION SHALL CONTAIN:

(a) A REPORT ON THE PROGRESS OF THE CHARTER SCHOOL IN ACHIEVING THE GOALS, OBJECTIVES, PUPIL PERFORMANCE STANDARDS, CONTENT STANDARDS, AND OTHER TERMS OF THE INITIAL APPROVED CHARTER APPLICATION; AND

(b) A FINANCIAL STATEMENT THAT DISCLOSES THE COSTS OF ADMINISTRATION, INSTRUCTION, AND OTHER SPENDING CATEGORIES FOR THE CHARTER SCHOOL THAT IS UNDERSTANDABLE TO THE GENERAL PUBLIC AND THAT WILL ALLOW COMPARISON OF SUCH COSTS TO OTHER SCHOOLS OR OTHER COMPARABLE ORGANIZATIONS, IN A FORMAT REQUIRED BY THE STATE BOARD OF EDUCATION.

(3) A CHARTER MAY BE REVOKED OR NOT RENEWED BY THE LOCAL BOARD OF EDUCATION IF SUCH BOARD DETERMINES THAT THE CHARTER SCHOOL DID ANY OF THE FOLLOWING:

(a) COMMITTED A MATERIAL VIOLATION OF ANY OF THE CONDITIONS, STANDARDS, OR PROCEDURES SET FORTH IN THE CHARTER APPLICATION;

(b) FAILED TO MEET OR MAKE REASONABLE PROGRESS TOWARD ACHIEVEMENT OF THE CONTENT STANDARDS OR PUPIL PERFORMANCE STANDARDS IDENTIFIED IN THE CHARTER APPLICATION;

(c) FAILED TO MEET GENERALLY ACCEPTED STANDARDS OF FISCAL MANAGEMENT; OR

(d) VIOLATED ANY PROVISION OF LAW FROM WHICH THE CHARTER SCHOOL WAS NOT SPECIFICALLY EXEMPTED.

(4) IN ADDITION, A CHARTER MAY BE NOT RENEWED UPON A DETERMINATION BY THE LOCAL BOARD OF EDUCATION THAT IT IS NOT IN THE INTEREST OF THE PUPILS RESIDING WITHIN THE SCHOOL DISTRICT TO CONTINUE THE OPERATION OF THE CHARTER SCHOOL.

(5) A DECISION TO REVOKE OR NOT TO RENEW A CHARTER MAY BE APPEALED PURSUANT TO THE PROVISIONS OF SECTION 22-30.5-108.

22-30.5-111. Charter schools - employee options. (1) DURING THE FIRST YEAR THAT A TEACHER EMPLOYED BY A SCHOOL DISTRICT IS EMPLOYED BY A CHARTER SCHOOL, SUCH TEACHER SHALL BE CONSIDERED TO BE ON A ONE-YEAR LEAVE OF ABSENCE FROM THE SCHOOL DISTRICT. SUCH LEAVE OF ABSENCE SHALL COMMENCE ON THE FIRST DAY OF SERVICES FOR THE CHARTER SCHOOL. UPON THE REQUEST OF THE TEACHER, THE ONE-YEAR LEAVE OF ABSENCE SHALL BE RENEWED FOR UP TO TWO ADDITIONAL ONE-YEAR PERIODS UPON THE MUTUAL AGREEMENT OF THE TEACHER AND THE SCHOOL DISTRICT. AT THE END OF THREE YEARS, THE RELATIONSHIP BETWEEN THE TEACHER AND THE SCHOOL DISTRICT SHALL BE DETERMINED BY THE SCHOOL DISTRICT AND SUCH DISTRICT SHALL PROVIDE

NOTICE TO THE TEACHER OF THE RELATIONSHIP.

(2) THE LOCAL BOARD OF EDUCATION SHALL DETERMINE BY POLICY OR BY NEGOTIATED AGREEMENT, IF ONE EXISTS, THE EMPLOYMENT STATUS OF SCHOOL DISTRICT EMPLOYEES EMPLOYED BY THE CHARTER SCHOOL WHO SEEK TO RETURN TO EMPLOYMENT WITH PUBLIC SCHOOLS IN THE SCHOOL DISTRICT.

(3) EMPLOYEES OF A CHARTER SCHOOL SHALL BE MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OR THE DENVER PUBLIC SCHOOLS RETIREMENT SYSTEM, WHICHEVER IS APPLICABLE. THE CHARTER SCHOOL AND THE TEACHER SHALL CONTRIBUTE THE APPROPRIATE RESPECTIVE AMOUNTS AS REQUIRED BY THE FUNDS OF SUCH ASSOCIATION OR SYSTEM.

22-30.5-112. Charter schools - financing - guidelines. (1) FOR PURPOSES OF THE "PUBLIC SCHOOL FINANCE ACT OF 1988", ARTICLE 53 OF THIS TITLE, PUPILS ENROLLED IN A CHARTER SCHOOL SHALL BE INCLUDED IN THE PUPIL ENROLLMENT OF THE DISTRICT WITHIN WHICH THE PUPIL RESIDES. THE SCHOOL DISTRICT OF RESIDENCE SHALL REPORT TO THE DEPARTMENT OF EDUCATION THE NUMBER OF PUPILS INCLUDED IN THE SCHOOL DISTRICT OF RESIDENCE'S PUPIL ENROLLMENT THAT ARE ACTUALLY ENROLLED IN EACH CHARTER SCHOOL.

(2) (a) AS PART OF THE CHARTER SCHOOL CONTRACT, THE CHARTER SCHOOL AND THE SCHOOL DISTRICT SHALL AGREE ON FUNDING AND ANY SERVICES TO BE PROVIDED BY THE SCHOOL DISTRICT TO THE CHARTER SCHOOL. THE CHARTER SCHOOL AND THE SCHOOL DISTRICT SHALL BEGIN DISCUSSIONS ON THE CONTRACT USING EIGHTY PERCENT OF THE DISTRICT PER PUPIL OPERATING REVENUES. AS USED IN THIS SUBSECTION (2), DISTRICT "PER PUPIL OPERATING REVENUES" SHALL HAVE THE SAME MEANING AS THAT PROVIDED IN SECTION 22-53-103.

(b) ALL SERVICES CENTRALLY OR OTHERWISE PROVIDED BY THE SCHOOL DISTRICT INCLUDING, BUT NOT LIMITED TO, FOOD SERVICES, CUSTODIAL SERVICES, MAINTENANCE, CURRICULUM, MEDIA SERVICES, LIBRARIES, AND WAREHOUSING SHALL BE SUBJECT TO NEGOTIATION BETWEEN A CHARTER SCHOOL AND THE SCHOOL DISTRICT AND PAID FOR OUT OF THE REVENUES NEGOTIATED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) IN NO EVENT SHALL THE AMOUNT OF FUNDING NEGOTIATED PURSUANT TO THIS SUBSECTION (2) BE LESS THAN EIGHTY PERCENT OF THE DISTRICT PER PUPIL OPERATING REVENUES MULTIPLIED BY THE NUMBER OF PUPILS ENROLLED IN THE CHARTER SCHOOL.

(d) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FUNDING AND SERVICE AGREEMENTS PURSUANT TO THIS SUBSECTION (2) SHALL BE NEITHER A FINANCIAL INCENTIVE NOR A FINANCIAL DISINCENTIVE TO THE ESTABLISHMENT OF A CHARTER SCHOOL.

(e) FEES COLLECTED FROM STUDENTS ENROLLED AT A CHARTER SCHOOL SHALL BE RETAINED BY SUCH CHARTER SCHOOL.

(3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, THE PROPORTIONATE SHARE OF STATE AND FEDERAL RESOURCES GENERATED BY STUDENTS WITH DISABILITIES OR STAFF SERVING THEM SHALL BE DIRECTED TO CHARTER SCHOOLS ENROLLING SUCH STUDENTS BY THEIR SCHOOL DISTRICTS OR ADMINISTRATIVE UNITS. THE PROPORTIONATE SHARE OF MONEYS GENERATED UNDER OTHER FEDERAL OR STATE CATEGORICAL AID PROGRAMS SHALL BE DIRECTED TO CHARTER SCHOOLS SERVING STUDENTS ELIGIBLE FOR SUCH AID.

(4) THE GOVERNING BODY OF A CHARTER SCHOOL IS AUTHORIZED TO ACCEPT GIFTS, DONATIONS, OR GRANTS OF ANY KIND MADE TO THE CHARTER SCHOOL AND TO EXPEND OR USE SAID GIFTS, DONATIONS, OR GRANTS IN ACCORDANCE WITH THE CONDITIONS PRESCRIBED BY THE DONOR; HOWEVER, NO GIFT, DONATION, OR GRANT SHALL BE ACCEPTED BY THE GOVERNING BODY IF SUBJECT TO ANY CONDITION CONTRARY TO LAW OR CONTRARY TO THE TERMS OF THE CONTRACT BETWEEN THE CHARTER SCHOOL AND THE LOCAL BOARD OF EDUCATION.

(5) THE DEPARTMENT OF EDUCATION WILL PREPARE AN ANNUAL REPORT AND EVALUATION FOR THE GOVERNOR AND THE GENERAL ASSEMBLY ON THE SUCCESS OR FAILURE OF CHARTER SCHOOLS, THEIR RELATIONSHIP TO OTHER SCHOOL REFORM EFFORTS, AND SUGGESTED CHANGES IN STATE LAW NECESSARY TO STRENGTHEN OR CHANGE THE CHARTER SCHOOL PROGRAM.

(6) THE DEPARTMENT OF EDUCATION WILL PROVIDE TECHNICAL ASSISTANCE TO PERSONS AND GROUPS PREPARING OR REVISING CHARTER APPLICATIONS.

22-30.5-113. Charter schools - evaluation - report. (1) THE STATE BOARD SHALL COMPILE EVALUATIONS OF CHARTER SCHOOLS RECEIVED FROM LOCAL BOARDS OF EDUCATION. THE STATE BOARD SHALL REVIEW INFORMATION REGARDING THE REGULATIONS AND POLICIES FROM WHICH CHARTER SCHOOLS WERE RELEASED PURSUANT TO SECTION 22-30.5-105 TO DETERMINE IF THE RELEASES ASSISTED OR IMPEDED THE CHARTER SCHOOLS IN MEETING THEIR STATED GOALS AND OBJECTIVES.

(2) THE STATE BOARD SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY ON ITS FINDINGS NO LATER THAN JANUARY 1, 1997.

(3) IN PREPARING THE REPORT REQUIRED BY THIS SECTION, THE STATE BOARD SHALL COMPARE THE PERFORMANCE OF CHARTER SCHOOL PUPILS WITH THE PERFORMANCE OF ETHNICALLY AND ECONOMICALLY COMPARABLE GROUPS OF PUPILS IN OTHER PUBLIC SCHOOLS WHO ARE ENROLLED IN ACADEMICALLY COMPARABLE COURSES.

22-30.5-114. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 2. 22-2-117 (4), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-2-117. Additional power - state board - waiver of

requirements - repeal. (4) This section is repealed, effective July 1, ~~1994~~ 1998.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Tom Norton
PRESIDENT OF
THE SENATE

Charles E. Berry
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan M. Albi
SECRETARY OF
THE SENATE

Lee C. Bahrych by JG
asst CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED June 3, 1993 at 1:43 P.M.

Roy Romer
GOVERNOR OF THE STATE OF COLORADO

Morrison Institute for Public Policy

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